# SIXTY-SIXTH REPORT

**OF THE**

# NORTH CAROLINA

# UTILITIES COMMISSION

# ORDERS AND DECISIONS

Issued from

January 1, 1976, through December 31, 1976

Marvin R. Wooten,* Chairman

Ben E. Roney, Commissioner

Tenney I. Deane, Jr.,** Commissioner

George T. Clark, Jr.,*** Commissioner

J. Ward Purrington, Commissioner

Barbara A. Simpson, Commissioner

W. Lester Teal, Jr., Commissioner

W. Scott Harvey,*** 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.

* Marvin R. Wooten resigned April 30, 1976
** Tenney I. Deane, Jr., appointed Chairman May 20, 1976
*** W. Scott Harvey appointed July 1, 1976, to fill unexpired term of George T. Clark, Jr.

LETTER OF TRANSMITTAL

December 31, 1976

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, 1976, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1976, and ending December 31, 1976.

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 CARCLINA UTILITIES COMMISSION

Tenney I. Deane, Jr., Chairman

Ben E. Roney, Commissioner

J. Ward Purrington, Commissioner

Barbara A. Simpson, Commissioner

W. Lester Teal, Jr., Commissioner

W. Scott Harvey, Commissioner

Katherine M. Peele, Chief Clerk

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Electricity

DOCKET NO. M-100, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Proposed Amendments to Commission Rules R1-17 and R1-24 Requiring Data With Filing of Rate Application | ) | INTERIM ORDER ON RECONSIDERATION |

BY THE COMMISSION: The Commission has reviewed the Motions for Reconsideration filed by several of the telephone and electric utilities with respect to the Commission's Order of July 18, 1975. It is apparent to the Commission that the provisions relating to the filing of evidence on actual changes based on circumstances and events occurring up to the time the hearing is closed under G.S. 62-133(c) as amended by the General Assembly of 1975 should be clarified to indicate that the receipt of such evidence is not discretionary with the Commission. It should be noted, however, that the statutes do provide that any such evidence should be relevant, material and competent.

The Commission concludes such evidence as described by that statute, if it is to be materially relied upon and used in the establishment of rates, should be expressly identified and presented in the context of the filed test year data, and, if possible, in the context of a 12-month period of time ending the last day of the month nearest 120 days from and following the date of the application. The latter provision conforms with the Commission's desire to review such changes in the light of the most recent 12 months historical period available prior to the hearing and is in accordance with the newly adopted procedure of the Commission to expedite rate hearings. Such hearings are now scheduled approximately four months after the filing of an application containing testimony and exhibits and required data. The Commission can meet this objective only if adequate data is received for proper review at the time of filing the application. Accordingly, the Commission concludes that Rule R1-17(b)(14) should be amended in accordance with Appendix "A" attached hereto. Corresponding revisions should be made in NCUC Form E-1, P-1 and G-1, the Rate Case Information Reports.

With respect to other issues raised by the Motions for Reconsideration, the Commission concludes that since no new matters were raised in the Motions for Reconsideration that were not raised in the Comments of various utilities filed prior to the entry of the Commission's Order, it would be advantageous to all parties to postpone action on the other issues raised on reconsideration to allow experience under the Commission's new hearing schedule to determine whether or not any further modifications ought to be made.

The parties are reminded that the Rules herein were previously modified in light of the Comments filed by various utilities and most of the data required in these

provisions has heretofore been filed on a case-by-case basis under separate orders of the Commission. The Commission has anticipated from the outset that the Rate Case Information Reports will be changed from time to time following decisions in rate cases wherein new data is either required or previous data abandoned by order of the Commission.

IT IS, THEREFORE, ORDERED as follows:

1. That Rule R1-17(b)(14) is hereby amended in accordance with Appendix "A" attached hereto.

2. That NCUC Forms E-1, P-1 and G-1 shall incorporate the above mentioned amendment to Rule R1-17(b)(14).

3. That this matter shall remain open for further action on the Motions for Reconsideration and be subject to further order of the Commission or subsequent Motions of any party.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
MODIFIED AMENDMENT TO RULE R1-17(b)(14)
DOCKET NO. M-100, SUB 58

RULE R1-17(b)(14) Class A & B electric, telephone and natural gas utilities shall file with and at the time of any general rate application all testimony, exhibits and other information which any such utility will rely on at the hearing on such increase. The Staff, Attorney General and all other Intervenors or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 20 days in advance of the scheduled hearing.

In the event any affected utility wishes to rely on G.S. 62-133(c) and offer evidence on actual changes based on circumstances and events occurring up to the time the hearing is closed, such utility should file with any general rate application detailed estimates of any such data and such estimates should be expressly identified and presented in the context of the filed test year data and, if possible, in the context of a twelve (12) month period of time ending the last day of the month nearest and following 120 days from the date of the application. Said period of time should contain the necessary normalizations and annualizations of all revenues, expenses and rate base items necessary for the Commission to properly investigate the impact of any individual circumstance or event occurring

after the test period cited by the applicant in support of its application. Any estimate made shall be filed in sufficient detail for review by the Commission.

DOCKET NO. M-100, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-72-Registration of ) ORDER
Certificates and Permits )

BY THE COMMISSION: The North Carolina Utilities Commission acting under the power and authority delegated to it by the law for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, is of the opinion that the proposed revision in Rule R2-72 is in the public interest and should be approved.

IT IS, THEREFORE, ORDERED:

(1) That Rule R2-72 of the Commission's Rules and Regulations be, and the same is hereby, amended to read as follows:

Rule R2-72. Registration of certificates and permits -

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

(b) If a motor carrier fails to register and identify its vehicles and driveaway operations with this Commission under the provisions of this Article for three (3) consecutive years, this Commission shall cancel the motor

carrier's registration of ICC operating authority under this Article upon thirty (30) days' notice to the carrier at its last known address, and the carrier shall not thereafter exercise its ICC authority within the borders of this State unless it shall have again registered such authority as prescribed by the provisions of this Article.

(2) That this Order be made effective as of May 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 66

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-76(b) - Issuance of ) ORDER
Identification Stamps and Use of Cab Cards )

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it by law for the promulgation of rules and regulations for enforcement of the Public Utilities Act, is of the opinion that the proposed revision in Rule R2-76(b) is in the public interest and should be approved.

IT IS, THEREFORE, ORDERED:

(1) That paragraph (b) of Rule R2-76 of the Commission's Rules and Regulations be, and the same is hereby, amended to read as follows:

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place one of such identification stamps on the back of the cab card in the square bearing the name of this State in such manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and execute the form of certificate printed on the front of the cab card so as to identify itself and such vehicle, or driveaway operation and, in the case of a vehicle leased by the motor carrier such expiration date shall not exceed the expiration date of the lease. The appropriate expiration date shall be entered in the space provided below the certificate. Such expiration date shall be within a period of fifteen months from the date of any identification stamp or number placed on the back thereof. However, in the case of a vehicle leased by the motor carrier for 29 consecutive days' duration or less, the

carrier may reuse the cab card for the same vehicle when subsequently leased for 29 consecutive days' duration or less, if it enters in the upper left-hand corner of the front of the cab card the figure and words "29 day lease or less" and if it enters an expiration date in the space provided below the certificate which shall be within a period of 15 months from the date the cab card is executed and shall not be later in time than the expiration date of any identification stamp or number placed on the back thereof.

(2) That the Order be made effective as of May 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 67

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment to Rule R1-16-Pledging Assets, ) ORDER
Issuing Securities, Assuming Obligations )

BY THE COMMISSION: The North Carolina Utilities Commission acting under the power and authority delegated to it by the law for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, is of the opinion that the proposed amendment to Rule R1-16 is in the public interest and should be approved.

IT IS, THEREFORE, ORDERED:

(1) That Rule R1-16, pledging assets, issuing securities, assuming obligations be, and the same is hereby amended by adding a new subparagraph (a) (9) at the end of paragraph (8) to read as follows:

(9) In the case of the sale of securities through private placement or the entering into an agreement for the sale and lease-back of assets or any other financing transaction for which the effective date of the consummation and/or implementation of the transaction is expected to take place as much as three months after the negotiation of the interest cost or other financing cost of the transaction is determined, that the utilities shall file with the Commission for approval of the proposed transaction as soon as the rates of interest and/or other financing costs are tentatively agreed on. All the other requirements

under R1-16 are applicable to this particular type transaction and are to be included in the filing with a special emphasis on supporting the basis for the proposed rates of interest and financing cost for which approval is sought.

(2) That this Order be made effective as of May 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 68

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Revision of Rule R2-48 of the Commission's Motor Carriers Regulations and Addition of Rule R3-9 to the Commission's Railroad Regulations to Revise the Classification of Motor Carriers and Incorporate Existing Requirements for Annual Reports in the Railroad Regulations | ORDER AMENDING RULE R2-48 AND ADDING RULE R3-9 |

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it for the promulgation of rules and regulations for the enforcement of the Public Utilities Act and upon consideration of its records and the Uniform Systems of Accounts adopted by the Interstate Commerce Commission for Class I, Class II, and Class III common and contract motor carriers of property, and Class I and Class II Railroads hereby adopts amendments to its Rule R2-48 and promulgates Rule R3-9. The amendment to Rule R2-48 revises the classification of common and contract motor carriers of property to conform with the revision of the Uniform Systems of Accounts for Class I, Class II, and Class III common and contract motor carriers of property. Rule R3-9 incorporates the various classes of railroads outlined in the Uniform Systems of Accounts which classification is now included in the instructions on the form provided for filing reports.

The Commission is of the opinion that all motor carriers of passengers, motor carriers of freight, and railroads regulated by the North Carolina Utilities Commission should be allowed to duplicate the annual report which they file with the Interstate Commerce Commission covering their 1976 operations in lieu of the report now required in the existing rules. The proposed rules will effect the reports for the year beginning January 1, 1977.

IT IS, THEREFORE, ORDERED:

1. That Exhibit No. 1 attached hereto and incorporated herein is hereby adopted as an amendment to Rule R2-48.

2. That Exhibit No. 2 attached hereto and incorporated herein is hereby adopted as Rule R3-9.

3. That all motor carriers of passengers, motor carriers of freight, and railroads regulated by the North Carolina Utilities Commission and by the Interstate Commerce Commission shall be allowed to duplicate the annual report which they file with the Interstate Commerce Commission covering their 1976 operations in lieu of the report now required in the existing rules.

4. That this Order shall be mailed to all motor carriers of passengers, motor carriers of freight and railroads regulated by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of December, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

EXHIBIT NO. 1

RULE R2-48. ACCOUNTS; ANNUAL REPORTS.

(a) The Uniform Systems of Accounts adopted by the Interstate Commerce Commission are hereby prescribed for use of Class I, Class II and Class III Common and Contract Motor Carriers of Passengers, who operate under the jurisdiction of this Commission pursuant to the Public Utilities Act or through the Commission's authority to fix rates and charges. (G.S. 62-260, subsection (b))

For purposes of annual, other periodical and special reports commencing with the year beginning January 1, 1977, and thereafter until further ordered, common and contract carriers of passengers subject to the North Carolina Utilities Commission's jurisdiction are grouped into the following classes:

CLASS I: Carriers having annual carrier operating revenues (including interstate and intrastate) of $1 million or more.

CLASS II: Carriers having annual carrier operating revenues (including interstate and intrastate) of $200,000 but less than $1 million.

CLASS III: Carriers having annual carrier operating revenues (including interstate and intrastate) of less than $200,000.

The class to which any carrier belongs shall be determined by annual carrier operating revenue by the following manner and procedure:

(1) If at the end of any calendar year or of 13 four-week periods, such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class III carriers, adoption of Class II classification shall be effective as of January 1 of the following year. For Class II carriers, adoption of a higher classification shall be effective as of January 1 of the second succeeding year after the carrier meets the minimum revenue limit for Class I.

(2) If at the end of a calendar year, or accounting year of 13 four-week periods, a carrier's annual operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) Carriers shall notify the Commission by letter of any change in classification by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying conditions justifying an exception.

(b) The Uniform Systems of Accounts adopted by the Interstate Commerce Commission are hereby prescribed for use

of Class I, Class II, and Class III Common and Contract Motor Carriers of Freight, who operate under the jurisdiction of this Commission pursuant to the Public Utilities Act or through the Commission's authority to fix rates and charges. (G.S. 62-260, Subsection (b))

For purposes of accounting and reporting regulations, commencing with the year beginning January 1, 1977, common and contract carriers of property subject to the North Carolina Utilities Commission's jurisdiction are grouped into the following three classes:

CLASS I: Carriers having annual carrier operating revenues of $3 million or more.

CLASS II: Carriers having annual carrier operating revenues of $500,000 but less than $3 million.

CLASS III: Carriers having annual carrier operating revenues of less than $500,000.

The class to which any carrier belongs shall be determined by annual carrier operating revenue by the following manner and procedure:

(1) If at the end of any calendar year, or accounting year of 13 four-week periods, such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class II carriers adoption of Class I classification shall be effective as of January 1 of the following year. For Class III carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year, or accounting year of 13 four-week periods, a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) Carriers shall notify the Commission by letter of any change in classification by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Special provisions for carriers with household goods operations include the following:

(1) For purposes of accounting and reporting revenues and expenses, the revenues of common and contract motor carriers of property that have household goods operations are categorized as follows:

(a) Instruction 28B (household goods)

(b) Instruction 27 and 28A (general commodity and other)

Each category of revenue is then classified in accordance with the dollar revenue limits prescribed in the definitions of Class I, II, and III above and shall be classified in accordance with subsections (b)(1)-(6) above. When a carrier has both household goods and general commodity and other revenue, each category shall be classified (I, II, or III) to determine the accounting and reporting regulations which pertain to that category.

(2) If a carrier grouped as a Class I or Class II carrier in accordance with this section has operations in both categories in subsection (c)(1) above, and one of the categories is classified as Class III, such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the Class I or Class II category.

(3) If a carrier grouped as Class II in accordance with this section has operations in both categories and both categories are grouped as Class III in accordance with this section, such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the category with the larger annual gross carrier operating revenues.

EXHIBIT NO. 2

RULE R3-9. ACCOUNTS; ANNUAL REPORTS

(a) The Uniform Systems of Accounts adopted by the Interstate Commerce Commission are hereby prescribed for use of Class I and Class II Railroads which operate under the jurisdiction of this Commission pursuant to the Public Utilities Act or through the Commission's authority to fix rates and charges. (G.S. 62-260, Subsection (b))

(b) For the purpose of annual, other periodical and special reports, commencing with reports for the year beginning January 1, 1977, and thereafter until further ordered, operating carriers by railroad subject to the North Carolina Utilities Commission's jurisdiction shall be, and they are hereby, grouped into the following classes:

Class I: Carriers having annual carrier operating revenues of $10 million or more.

Class II: Carriers having annual carrier operating revenues of less than $10 million.

(c) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. Class II carriers shall adopt Class I classification effective as of January 1 of the following year.

(2) If at the end of any calendar year a Class I carrier's annual operating revenue is less than $10 million, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements for Class II carriers. Such adoption shall be effective as of January 1 of the following year.

(3) Carriers shall notify the Commission by letter of any change in classification by October 31 of each year.

(4) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues for the latest period of operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(d) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(e) In applying the classification grouping to any switching or terminal company which is operated as a joint facility of owning or tenant railways the sum of the annual carrier operating revenues, the joint facility rent income, and the totals of the joint facility credit accounts in operating expenses, shall be used in determining its class.

DOCKET NO. E-100, SUB 23

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Safety of Certain Dams Owned in North Carolina by Electric Utilities | ) | ORDER REQUIRING INVENTORY AND INSPECTION |

BY THE COMMISSION: Pursuant to its statutory jurisdiction over the safety of operation of utilities in North Carolina, the Commission is reviewing the condition of certain dams owned in North Carolina by electric utilities that are not covered by the Dam Safety Law of 1967, N.C.G.S. §43-215, or by Federal Power Commission license, or by previous order of this Commission regarding hydroelectric dam safety inspection programs. Cooling reservoir dams and ash pond dams are examples of dams which could fit into this category.

It is the opinion of the Commission that such dams are under Commission jurisdiction, and to help ensure the safety of the general public and utility employees, should be subject to periodic safety inspections by an independent consultant, chosen and paid for by the utilities.

IT IS, THEREFORE, ORDERED:

1. That each electric utility shall file by August 1, 1976,* an inventory of all its dams within North Carolina that are not covered by the Dam Safety Law of 1967, N.C.G.S. §43-215, or by Federal Power Commission license, or by previous order of this Commission regarding dam safety inspections.

2. That each utility file by September 1, 1976, a schedule for periodic safety inspection by an independent consultant at least once in every five years of each of its dams referred to in ordering paragraph 1.

3. That each utility file by September 1, 1976, an estimate of the annual cost involved in the inspections required in ordering paragraph 2.

ISSUED BY ORDER OF THE COMMISSION.

This 5th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

* Corrected by Order dated July 8, 1976.

DOCKET NO. E-100, SUB 23

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Safety of Certain Dams Owned in North Carolina by Electric Utilities | ) ) | ORDER OF CLARIFICATION |

BY THE COMMISSION: On April 5, 1976, this Commission issued an Order Requiring Inventory and Inspection in this Docket establishing a formal safety inspection program for certain dams owned by the electric utilities operating in North Carolina. The April 5, 1976 Order required each electric utility to file by September 1, 1976, a schedule for periodic safety inspection by an independent consultant of all dams not covered by the Dam Safety Law of 1967, N.C.G.S. 143-215, or by Federal Power Commission license, or by previous order of this Commission regarding dam safety inspections. On August 31, 1976, pursuant to a Motion filed by Carolina Power and Light Company, the Commission issued an Order allowing an extension of time until October 18, 1976, for filing said schedules.

On September 16, 1976, representatives of Carolina Power and Light Company, Duke Power Company, the Environmental Management Commission Staff, and the North Carolina Utilities Commission Staff met to discuss the April 5, 1976, Order. A consensus was reached by all parties attending the meeting on several questions of jurisdiction and definitions.

The Commission is of the opinion that an Order clarifying the issues discussed at the September 16, 1976, meeting and pertinent to the April 5, 1976 Order is appropriate.

IT IS, THEREFORE, ORDERED:

1. That for the purposes of the dam safety program established in this docket, the definition of "dam" shall be as set forth in N.C.G.S. 143-215.25(2)f* and shall apply to all utility owned dams except for (a) dams subject to Federal Power Commission jurisdiction and (b) dams that are part of retired facilities and automatically come under jurisdiction of the Environmental Management Commission,

2. That the inspections shall be done by independent consultants at five year intervals; however, the first inspection of all facilities shall be phased over a five year period,

3. That the scope of the routine inspections shall be as defined in Phase I of the "Recommended Guidelines for Safety Inspection of Dams" released by the Department of the Army, Office of the Chief of Engineers, in May 1976,

4. That the cost of such inspections shall be borne by the utility,

5. That requests by a utility for exclusion of dams that present no apparent safety hazards from the safety inspection program will be considered on a case by case basis, and

6. That the Order of April 5, 1976 issued in this Docket and hereinabove clarified continues in effect as issued.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

* Corrected by Errata Order dated October 22, 1976.

DOCKET NO. G-100, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Procedure for Natural Gas Rate Cases Occasioned by Wholesale Increases Under G.S. 62-133(f) | ) ) ) | ORDER FURTHER AMENDING PROCEDURES FOR FILING UNDER G.S. 62-133(f) |

BY THE COMMISSION: On October 15, 1971, the North Carolina Utilities Commission adopted procedures to be followed by gas utilities in North Carolina for filing under G.S. 62-133(f). At that time, the filings by Transcontinental Gas Pipe Line Corporation (Transco)

requesting authority to increase rates originated primarily from producer increases or general rate cases. Since the procedures were established, the following have occurred: the Federal Power Commission has established and approved procedures for Transco to collect all advance payments through tracking provisions, the number of general rate cases has increased, adjustments to the cost of gas have been made more frequently, and Transco has proposed to the Federal Power Commission that it approve a volumetric variation adjustment clause. All these factors have produced numerous tariff filings practically on a monthly basis. For example:

| Effective Date 1976 | | CD-2 Rate at 100% L.F. |
|---|---|---|
| Jan. 1 | Actual | 91.03¢/Mcf |
| Feb. 1 | Actual | 88.87¢/Mcf |
| Feb. 2 | Actual | 90.57¢/Mcf |
| Mar. 1 | Expected | 91.27¢/Mcf |
| Mar. 2 | Expected | 90.97¢/Mcf |
| Apr. 1 | Expected | 92.37¢/Mcf |

The number of filings required in order to track the above costs places an undue and unrealistic burden on both the natural gas companies in this State and the Commission Staff and is confusing to the public.

For these reasons, the Commission is of the opinion that the natural gas companies operating in this State should be permitted to establish a deferred account and to place in that deferred account amounts paid for natural gas over or under the level established in their most recent rate filings, which shall be considered the base cost of gas. These amounts should be accrued in the deferred account, and at the appropriate time an application should be filed with this Commission for their recovery in accordance with the procedures established in this Docket. Adherence to these procedures should enable the gas utilities to meet the statutory 30-day filing requirement thereby eliminating requests for waiver.

Any refunds received from Transco should also be placed in this deferred account.

The Commission is of the opinion that if the above procedures are followed the filings will be made administratively more equitable, and the companies, their customers, and the Commission Staff will benefit through adequate notice and stability in rates.

IT IS, THEREFORE, ORDERED:

1. That each natural gas utility shall be authorized to establish and to place in a deferred account the dollar amounts for gas purchased over or under the base period cost of gas, as established in its most recent rate filing, until

the next rate filing, which shall then establish a new base period cost of gas.

2. That any debit balance in the deferred account shall be recoverable by the utility, and any credit balance in the deferred account shall be returnable to ratepayers, in the next rate filing.

3. That, upon implementation of rate changes to recover or refund accumulated balances in the deferred account, the incremental increase or decrease in revenues (excluding gross receipts tax) applicable to these balances shall be debited or credited to the deferred account on a monthly basis. The offsetting debit or credit shall be made to the cost of gas account.

4. That all refunds received from Transco by the gas utilities shall be placed in the deferred account.

5. That, to the extent feasible, purchased gas cost tracking filings shall be made in conjunction with other rate filings or by rate filings which may be required by Commission order.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 22A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application by Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., and North Carolina Natural Gas Company for Approval of a One-Year Extension of the Transco-Mosbacher Exploration and Drilling Program | ORDER APPROVING ONE-YEAR EXTENSION OF TRANSCO-MOSBACHER EXPLORATION AND DRILLING PROGRAM |

BY THE COMMISSION: The Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, approved a rulemaking procedure by which the natural gas utility distribution companies in North Carolina could participate in petroleum exploration and drilling activities designed to increase the supply of natural gas available for consumers in North Carolina. Subsequent Orders of the Commission provided that 75% of those exploration expenses which could not properly or prudently be paid from internally generated funds would be "tracked," and the companies would file for a rate

increase or decrease, due to exploration activities, approximately every six months, based on the costs of such activities, offset by the revenues generated by such activities.

By Order issued in this docket on August 4, 1975, the Commission approved the first year of a proposed three-year joint venture entitled the Transco-Mosbacher Joint Venture. The participants in such Joint Venture included, among others, Transcontinental Exploration Company (Transco), Robert Mosbacher (the operator), Piedmont Natural Gas Company, Inc. (Piedmont), Public Service Company of North Carolina, Inc. (Public Service), and North Carolina Natural Gas Corporation (N. C. Natural).

The initial duration of the program was to be for one year, but if the program proved successful, it was the expressed intention of the parties to continue the program from year to year on an annual basis. It was anticipated that, if the program achieved average success, new gas would be discovered and made available to the three participating North Carolina gas utility companies at an in-place cost of approximately $.31 per Mcf.

On May 17, 1976, the Commission received a unanimous application from the Exploration Committee established pursuant to Commission Rule R1-17 (h)(i) requesting approval by the Commission of a one-year extension of the Transco-Mosbacher Program. The application reported that new gas had been discovered during the first year of operation and that such cost was found at an in-place cost to the participating North Carolina utilities of $.58 per Mcf based on proven and probable reserves and $.29 per Mcf based on proven, probable and possible reserves. These cost figures were based on data supplied to the Committee by Transco.

On June 9, 1976, the Commission authorized and directed that an independent appraisal of Transco's data be made by George S. Monkhouse & Associates, Inc., an independent firm of petroleum engineers and consultants in Dallas, Texas. The results of the Monkhouse analysis tend to substantially confirm the data provided by Transco.

Based upon the foregoing, the Commission concludes that the proposed one-year extension of the Transco-Mosbacher Program is just and reasonable under the standards adopted by the Commission's Rulemaking Order issued on June 26, 1975, and that such extension merits the approval of the Commission herein, subject to further scrutiny at the time the three participating utilities file for such changes in rates as may be necessary to recoup costs and account for revenues associated with the program.

IT IS, THEREFORE, ORDERED:

1. That the one-year extension of the Transco-Mosbacher Joint Venture in the form presented to the Commission be, and the same is hereby, approved and the three North Carolina gas utilities involved are hereby authorized to participate in such program either directly or through wholly-owned subsidiaries.

The approval herein granted is limited to the amount budgeted for the second year's operations as contained in the original application and is further limited in time to two years from and after the first expenditure of funds by the North Carolina utilities in the first year of this project.

2. That the participating utilities, through the Chairman of the Exploration Committee, shall provide to the Commission timely filings of all data received from Transco-Mosbacher concerning this program.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. G-100, SUB 26

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

BY THE COMMISSION: The Office of Pipeline Safety Operations 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. Since that time, several amendments have been proposed and adopted to the Minimum Federal Safety Standards by the Office of Pipeline Safety and, subsequently, adopted by the North Carolina Utilities Commission.

Under the provisions of G.S. 62-50, the North Carolina Utilities Commission has pipeline safety jurisdiction over all natural gas public utilities and municipal gas facilities. During 1975, the Office of Pipeline Safety Operations adopted several amendments to Part 192 of Title 49 of the Code of Federal Regulations. These amendments are as follows:

1. In consideration of the foregoing, §192.625(g)(1) of Title 49 of the Code of Federal Regulations is amended effective January 1, 1975, to read as follows:

(g) * * *

(1) January 1, 1977; or

* * * * *

2. Section 192.225(a) is amended to read as follows:

§192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under section IX of the ASME Boiler and Pressure Vessel Code or section 2 of the 1973 edition of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under section 2 of the 1968 edition of API Standard 1104 before March 20, 1975, may continue to be used but may not be requalified under that edition.

* * * * *

3. Section 192.227(a)(2) is amended to read as follows:

§192.227 Qualification of welders.

(a) * * *

(2) The following editions of section 3 of API Standard 1104:

(i) The 1973 edition, except that a welder may be qualified by radiography under subsection 3.5 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(ii) If a welder is qualified before March 20, 1975, the 1968 edition, except that a welder may not requalify under the 1968 edition.

* * * * *

4. Section 192.229(c) is amended to read as follows:

§192.229 Limitations on welders.

* * * * *

(c) A welder qualified under §192.227(a) may not weld unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under--

(1) Section 3 or 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(2) In the case of tests conducted before March 20, 1975, section 3 or 6 of the 1968 edition of API Standard 1104.

5. Section 192.241(c) is amended to read as follows:

§192.241 Inspection and test of welds.

* * * * *

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead.

6. Item II.A.8 of Appendix A of Part 192 would be amended to read as follows:

APPENDIX A - INCORPORATED BY REFERENCE

* * * * *

II. Documents incorporated by reference.

A. American Petroleum Institute:

* * * * *

8. API Standard 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968 and 1973 editions).

* * * * *

7. In §192.59, paragraphs (a)(1) and (b)(1) are revised and a new paragraph (c) is added to read as follows:

§192.59 Plastic pipe.

(a) New plastic pipe is qualified for use under this part if--

(1) When the pipe is manufactured, it is manufactured in accordance with the latest listed edition of a listed specification, except that before March 21, 1975, it may be manufactured in accordance with any listed edition of a listed specification; and

* * * * *

(b) Used plastic pipe is qualified for use under this part if--

(1) When the pipe was manufactured, it was manufactured in accordance with the latest listed edition of a listed specification, except that pipe manufactured before March 21, 1975, need only have met the requirements of any listed edition of a listed specification;

* * * * *

(c) For the purpose of paragraphs (a)(1) and (b)(1) of this section, where pipe of a diameter included in a listed specification is impractical to use, pipe of a diameter between the sizes included in a listed specification may be used if it--

(1) Meets the strength and design criteria required of pipe included in that listed specification; and

(2) Is manufactured from plastic compounds which meet the criteria for material required of pipe included in that listed specification.

8. In Section II of Appendix A, subsection B.18. is amended by adding "D2513-70" and "D2513-71" within the parenthetical expression.

9. In Section I of Appendix B, the next to the last item, beginning "ASTM D2513," is amended by adding the numbers "1970" and "1971" within the parenthetical expression.

10. Section 192.707 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line--

(1) At each crossing of a public road, railroad, and navigable waterway; and

(2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

However, until January 1, 1978, paragraphs (a)(1) and (a)(2) of this section do not apply to mains installed before April 21, 1975, and until January 1, 1978, paragraph (a)(1) of this section does not apply to transmission lines installed before April 21, 1975.

(b) Exceptions for buried pipelines. Line markers are not required for buried mains and transmission lines--

(1) In Class 3 or Class 4 locations--

(i) Where placement of a marker is impractical; or

(ii) Where a program for preventing interference with underground pipelines is established by law; or

(2) In the case of navigable waterway crossings, within 100 feet of a line marker placed and maintained at that waterway in accordance with this section.

(c) Pipelines aboveground. Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

(d) Markers other than at navigable waterways. The following must be written legibly on a background of sharply contrasting color on each line marker not placed at a navigable waterway:

(1) The word "Warning," "Caution," or "Danger" followed by the words "Gas Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least one inch high with one-quarter inch stroke.

(2) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(e) Markers at navigable waterways. Each line marker at a navigable waterway must have the following characteristics:

(1) A sign, rectangular in shape, with a narrow strip along each edge colored international orange and the area between lettering on the sign and boundary strips colored white.

(2) Written on the sign in block style, black letters--

(i) The word "Warning," "Caution," or "Danger," followed by the words "Do Not Anchor or Dredge" and the words "Gas Pipeline Crossing"; and

(ii) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(3) In overcast daylight, the sign is visible and the writing required by paragraph (e)(2)(i) of this

section is legible, from approaching or passing vessels that may damage or interfere with the pipeline.

(f) Existing markers. Line markers installed before April 21, 1975, which do not comply with paragraph (d) or (e) of this section may be used until January 1, 1980.

11. In §192.625, paragraphs (a) and (b) are revised to read as follows:

§192.625 Odorization of gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

(b) After December 31, 1976, a combustible gas in a transmission line in a Class 3 or Class 4 location must comply with the requirements of paragraph (a) of this section unless--

(1) At least 50 percent of the length of the line downstream from that location is in a Class 1 or Class 2 location;

(2) The line transports gas to any of the following facilities which received gas without an odorant from that line before May 5, 1975;

(i) An underground storage field;

(ii) A gas processing plant;

(iii) A gas dehydration plant; or

(iv) An industrial plant using gas in a process where the presence of an odorant--

(A) Makes the end product unfit for the purpose for which it is intended;

(B) Reduces the activity of a catalyst; or

(C) Reduces the percentage completion of a chemical reaction; or

(3) In the case of a lateral line which transports gas to a distribution center, at least 50 percent of the length of that line is in a Class 1 or Class 2 location.

* * * * *

|2. In §|92.705, paragraph (a) is amended, paragraph (b) is revised, and paragraph (c) is deleted. As amended, §|92.705 reads as follows:

§|92.705 Transmission lines: Patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

| Class location of line | Maximum interval between patrols: At highway and railroad crossings | Maximum interval between patrols: At all other places |
|---|---|---|
| |,2 | 6 months | | year |
| 3 | 3 months | 6 months |
| 4 | do | 3 months |

|3. Section |92.706 is added to read as follows:

§|92.706 Transmission lines: Leakage surveys.

(a) Each operator of a transmission line shall provide for periodic leakage surveys of the line in its operating and maintenance plan.

(b) Leakage surveys of a transmission line must be conducted at intervals not exceeding | year. However, in the case of a transmission line which transports gas in conformity with §|92.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted--

(|) In Class 3 locations at intervals not exceeding 6 months; and

(2) In Class 4 locations, at intervals not exceeding 3 months.

|4. In the table of contents, §|92.706 is added to read as follows:

Sec. |92.706 Transmission lines: leakage surveys.

|5. Section |92.65(a) is amended to read as follows:

§ |92.65 Transportation of pipe.

In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having

an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by railroad unless--

(a) The transportation is performed in accordance with the 1972 edition of API RP5L1, except that before February 25, 1975, the transportation may be performed in accordance with the 1967 edition of API RP5L1.

16. In Section II.A of Appendix A to Part 192, item 4 is amended to read as follows:

APPENDIX A--INCORPORATED BY REFERENCE

* * * * *

II. Documents incorporated by reference.

A. American Petroleum Institute:

* * * * *

4. API Recommended Practice 5L1 entitled "API Recommended Practice for Railroad Transportation of Line Pipe" (1967 and 1972 editions).

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 the 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 legislative mandate under provisions of G.S. 62-2 and G.S. 62-50, the above stated amendments and new additions, as adopted by the Department of Transportation in 49 CFR Part 192, should be adopted and made applicable to such pipeline facilities and facilities for transportation of natural gas under the jurisdiction of this Commission.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the following amendments 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 192 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.

Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

1. In consideration of the foregoing, §192.625 (g) (1) of Title 49 of the Code of Federal Regulations is amended effective January 1, 1975, to read as follows:

(g) * * *

(1) January 1, 1977; or

* * * * *

2. Section 192.225(a) is amended to read as follows:

§192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under section IX of the ASME Boiler and Pressure Vessel Code or section 2 of the 1973 edition of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under section 2 of the 1968 edition of API Standard 1104 before March 20, 1975, may continue to be used but may not be requalified under that edition.

* * * * *

3. Section 192.227(a)(2) is amended to read as follows:

§192.227 Qualification of welders.

(a) * * *

(2) The following editions of section 3 of API Standard 1104:

(i) The 1973 edition, except that a welder may be qualified by radiography under subsection 3.5 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(ii) If a welder is qualified before March 20, 1975, the 1968 edition, except that a welder may not requalify under the 1968 edition.

* * * * *

4. Section 192.229(c) is amended to read as follows:

§192.229 Limitations on welders.

* * * * *

(c) A welder qualified under §192.227(a) may not weld unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under--

(1) Section 3 or 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(2) In the case of tests conducted before March 20, 1975, section 3 or 6 of the 1968 edition of API Standard 1104.

5. Section 192.241(c) is amended to read as follows:

§192.241 Inspection and test of welds.

* * * * *

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead.

6. Item II.A.8 of Appendix A of Part 192 would be amended to read as follows:

APPENDIX A -- INCORPORATED BY REFERENCE

* * * * *

II. Documents incorporated by reference.

A. American Petroleum Institute:

* * * * *

8. API Standard 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968 and 1973 editions).

* * * * *

7. In §192.59, paragraphs (a)(1) and (b)(1) are revised and a new paragraph (c) is added to read as follows:

§192.59 Plastic pipe.

(a) New plastic pipe is qualified for use under this part if--

(1) When the pipe is manufactured, it is manufactured in accordance with the latest listed edition of a listed specification, except that before March 21, 1975, it may be manufactured in accordance with any listed edition of a listed specification; and

* * * * *

(b) Used plastic pipe is qualified for use under this part if--

(1) When the pipe was manufactured, it was manufactured in accordance with the latest listed edition of a listed specification, except that pipe manufactured before March 21, 1975, need only have met the requirements of any listed edition of a listed specification;

* * * * *

(c) For the purpose of paragraphs (a)(1) and (b)(1) of this section, where pipe of a diameter included in a listed specification is impractical to use, pipe of a diameter between the sizes included in a listed specification may be used if it--

(1) Meets the strength and design criteria required of pipe included in that listed specification; and

(2) Is manufactured from plastic compounds which meet the criteria for material required of pipe included in that listed specification.

8. In Section II of Appendix A, subsection B.18. is amended by adding "D2513-70" and "D2513-71" within the parenthetical expression.

9. In Section I of Appendix B, the next to the last item, beginning "ASTM D2513," is amended by adding the numbers "1970" and "1971" within the parenthetical expression.

10. Section 192.707 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line--

(1) At each crossing of a public road, railroad, and navigable waterway; and

(2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

However, until January 1, 1978, paragraphs (a)(1) and (a)(2) of this section do not apply to mains installed before April 21, 1975, and until January 1, 1978, paragraph (a)(1) of this section does not apply to transmission lines installed before April 21, 1975.

(b) Exceptions for buried pipelines. Line markers are not required for buried mains and transmission lines--

(1) In Class 3 or Class 4 locations--

(i) Where placement of a marker is impractical; or

(ii) Where a program for preventing interference with underground pipelines is established by law; or

(2) In the case of navigable waterway crossings, within 100 feet of a line marker placed and maintained at that waterway in accordance with this section.

(c) Pipelines aboveground. Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

(d) Markers other than at navigable waterways. The following must be written legibly on a background of sharply contrasting color on each line marker not placed at a navigable waterway:

(1) The word "Warning," "Caution," or "Danger" followed by the words "Gas Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least one inch high with one-quarter inch stroke.

(2) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(e) Markers at navigable waterways. Each line marker at a navigable waterway must have the following characteristics:

(1) A sign, rectangular in shape, with a narrow strip along each edge colored international orange and the area between lettering on the sign and boundary strips colored white.

(2) Written on the sign in block style, black letters--

(i) The word "Warning," "Caution," or "Danger," followed by the words "Do Not Anchor or Dredge" and the words "Gas Pipeline Crossing"; and

(ii) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(3) In overcast daylight, the sign is visible and the writing required by paragraph (e) (2) (i) of this section is legible, from approaching or passing vessels that may damage or interfere with the pipeline.

(f) Existing markers. Line markers installed before April 21, 1975, which do not comply with paragraph

(d) or (e) of this section may be used until January 1, 1980.

11. In §192.625, paragraphs (a) and (b) are revised to read as follows:

§192.625 Odorization of Gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

(b) After December 31, 1976, a combustible gas in a transmission line in a Class 3 or Class 4 location must comply with the requirements of paragraph (a) of this section unless--

(1) At least 50 percent of the length of the line downstream from that location is in a Class 1 or Class 2 location;

(2) The line transports gas to any of the following facilities which received gas without an odorant from that line before May 5, 1975;

(i) An underground storage field;

(ii) A gas processing plant;

(iii) A gas dehydration plant; or

(iv) An industrial plant using gas in a process where the presence of an odorant--

(A) Makes the end product unfit for the purpose for which it is intended;

(B) Reduces the activity of a catalyst; or

(C) Reduces the percentage completion of a chemical reaction; or

(3) In the case of a lateral line which transports gas to a distribution center, at least 50 percent of the length of that line is in a Class 1 or Class 2 location.

* * * * *

12. In §192.705, paragraph (a) is amended, paragraph (b) is revised, and paragraph (c) is deleted. As amended, §192.705 reads as follows:

§192.705 Transmission lines: Patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

| Class location of line | Maximum interval between patrols: At highway and railroad crossings | Maximum interval between patrols: At all other places |
|---|---|---|
| 1,2 | 6 months | 1 year |
| 3 | 3 months | 6 months |
| 4 | do | 3 months |

13. Section 192.706 is added to read as follows:

§192.706 Transmission lines: Leakage surveys.

(a) Each operator of a transmission line shall provide for periodic leakage surveys of the line in its operating and maintenance plan.

(b) Leakage surveys of a transmission line must be conducted at intervals not exceeding 1 year. However, in the case of a transmission line which transports gas in conformity with §192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted--

(1) In Class 3 locations at intervals not exceeding 6 months; and
(2) In Class 4 locations, at intervals not exceeding 3 months.

14. In the table of contents, §192.706 is added to read as follows:

Sec. 192.706 Transmission lines; leakage surveys.

15. Section 192.65(a) is amended to read as follows:

§192.65 Transportation of pipe.

In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by railroad unless---

(a) The transportation is performed in accordance with the 1972 edition of API RP5L1, except that before

February 25, 1975, the transportation may be performed in accordance with the 1967 edition of API RP5L1.

16. In Section II.A of Appendix A to Part 192, item 4 is amended to read as follows:

APPENDIX A -- INCORPORATED BY REFERENCE

* * * * *

II. Documents incorporated by reference.

A. American Petroleum Institute:

* * * * *

(4) API Recommended Practice 5L1 entitled "API Recommended Practice for Railroad Transportation of Line Pipe" (1967 and 1972 editions).

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

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

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Investigation and Promulgation of Rule to Establish Uniform System of Gas Leaks | ) ORDER PROPOSING UNIFORM<br>) STANDARDS FOR CLASSIFICATION<br>) AND INSPECTION OF GAS LEAKS |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on April 6, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding, and Commissioners Ben E. Roney, Tenney I. Deane, Jr., J. Ward Purrington, and W. Lester Teal, Jr.

APPEARANCES:

For the Companies:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402
For: Piedmont Natural Gas Company

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

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Post Office Box 1688, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation

For the Commission Staff:

John R. Molm, Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 20, 1976, upon its own initiative, the North Carolina Utilities Commission issued an Order promulgating a Proposed Rule R6-41, Uniform System of Gas Leaks to become effective March 1, 1976, subject to comment and hearing. All interested parties were directed to file their comments no later than February 26, 1976.

The Commission received several remarks and comments from the natural gas distributing companies in North Carolina and, based on those remarks and comments, postponed the effective date of the proposed rule and scheduled hearing on the matter for April 6, 1976, at 9:30 a.m. in the Commission Hearing Room, Ruffin Building, Raleigh, North Carolina. Said hearing was held at the date, time and place indicated and all parties were present and represented by counsel.

There are currently no uniform guidelines for classification and inspection of gas leaks being followed by the natural gas companies in North Carolina. This lack of uniformity has greatly hampered the ability of the Commission's staff to assure that proper inspection and classification procedures are being used.

Although the safety record of the gas distributing companies in North Carolina is commendable, the lack of

detailed uniform guidelines has resulted in delayed reporting of gas leaks by consultants and others who conduct leakage surveys. In some instances, hazardous leaks have not been responded to within a reasonable period of time.

The American Society of Mechanical Engineers (ASME) and the National Association of Regulatory Utility Commissioners (NARUC) have recognized the need for industry-wide standards and have adopted their own standards for gas leakage controls.

The Commission is of the opinion that the Gas Leakage Control Guidelines of ASME constitute reasonable standards for gas leakage classification and inspection, and believes that the said ASME guidelines should be adopted as acceptable standards to be followed by the natural gas distributing companies in North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That notice is hereby given that the Commission proposes to amend Commission Rule R6-21 by the addition of sub-paragraph (8) to read as follows: "The current edition as 'ASME Gas Leakage Control Guidelines,' American Society of Mechanical Engineers.", a copy of which, (Addenda No. 16, July 1975) is attached as Exhibit A* and incorporated herein by reference as if fully set out.

2. Any party wishing to file comments should do so within ten (10) days after the issuance of this order.

3. This order shall become effective on June 1, 1976, subject to the Commission's consideration, in conference, of comments filed pursuant to paragraph 2.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

*For Exhibit A see official file.

DOCKET NO. G-100, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Emergency Purchases by North Carolina Gas Utilities Pursuant to the Settlement Agreement in FPC Docket No. RP72-99 | ) ) ) ) | ORDER PRESCRIBING METHODS FOR RECOVERING THE COST OF PURCHASED GAS |

BY THE COMMISSION: On 28 November 1975 the Federal Power Commission approved a settlement agreement filed by Transcontinental Gas Pipe Line Corporation (Transco) in Docket No. RP72-99. Under this agreement, Transco is permitted to purchase emergency gas and to recover 50% of the cost on an incremental basis from those customers receiving the gas and 50% of the cost on a roll-in basis from all customers. The specific methods by which Transco is permitted to recover the cost of emergency gas are contained in Transco's tariffs as filed with and accepted by the FPC. Customers who receive (and are required to pay for) this gas will vary as flowing gas supply varies, and final determination of the amount which each customer will be required to pay will not be precisely determined until 31 October 1976, the end of the period covered by the agreement.

Due to the uncertain nature of the pricing of emergency gas under Transco's settlement agreement, this Commission is of the opinion that a procedure should be established to facilitate the recovery by North Carolina's five natural gas distributors of the cost of emergency gas supplied by Transco and to avoid the necessity for numerous tracking and adjustment filings by the companies.

The Commission therefore concludes that each company should be allowed to maintain a separate account for deferred purchased gas expense and to debit to such account the incremental portion and the roll-in portion of the cost of emergency gas billed to it by Transco.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That each of North Carolina's five natural gas distributors shall maintain a deferred purchased gas expense account for all charges made by Transco for emergency gas.

2. That the costs to be deferred shall be

   a. The product of the difference between the Special Incremental Commodity Charge and the CD-2 commodity rate times the applicable emergency volumes; plus

   b. The product of the emergency gas cost adjustment included in Transco's CD-2 and PS-2 commodity rates times the applicable volumes.

3. That charges from Transco for emergency gas shall be debited to the above account instead of directly to purchased gas expense.

4. That whenever the amounts contained in the deferred account reach a level such that a company reasonably believes it necessary to recover this cost from its customers, the company shall file appropriate tariffs

with the Commission along with three (3) copies of all work papers supporting such filings.

5. That each company shall file with the Commission three (3) copies of a monthly report showing transactions affecting the deferred account. These reports shall be due as soon as practicable but no later than the end of the next succeeding month. Included in each report filed shall be a copy of the bill from Transco for emergency gas purchases and charges made during the month.

6. That this Order shall remain in effect pending the issuance of further orders as the Commission deems appropriate.

ISSUED BY ORDER OF THE COMMISSION.

This 5th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. G-100, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Rule-making Proceeding for Pricing of Natural Gas Acquired through Emergency Purchases | ) ORDER ESTABLISHING<br>) POLICY FOR PRICING OF<br>) EMERGENCY GAS; EXEMPT-<br>) ING RESIDENTIAL<br>) CUSTOMERS FROM<br>) EMERGENCY GAS PRICING;<br>) SEPARATING DOCKET FOR<br>) INDIVIDUAL DISTRIBUTION<br>) COMPANY RATE DOCKETS |

PLACE: Commission Hearing Room, Raleigh, North Carolina

DATE: November 23, 24 and 29, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney, J. Ward Purrington, W. Lester Teal, Jr., Barbara A. Simpson and W. Scott Harvey

APPEARANCES:

For the Respondents:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, Post

Office Drawer D, Greensboro, North Carolina 27402
For: Piedmont Natural Gas Company, Inc.

F. Kent Burns and James Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602
For: Public Service Company of North Carolina, Inc.

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Post Office Box 1688, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation

For the Intervenors:

Thomas R. Eller, Jr., Hovis, Hunter & Eller, Attorneys at Law, 801 American Building, Charlotte, North Carolina 28286
For: N.C. Textile Manufacturing Association, Inc.

M. Alexander Biggs, Biggs, Meadows, Batts, Etheridge & Winberry, Attorneys at Law, Post Office Drawer 153, Rocky Mount, North Carolina
For: Brick Association of North Carolina

Louis B. Meyer, Lucas, Rand, Rose, Meyer, Vongs & Orcutt, Attorneys at Law, Post Office Box 2008, Wilson, North Carolina 27893
For: Cities of Wilson, Rocky Mount, Greenville and Monroe

Bill McCullough and Charles Meeker, Sanford, Cannon, Adams & McCullough, Attorneys at Law, Post Office Box 389, Raleigh, North Carolina 27602
For: C.F. Industries, Inc.

Anthony E. Cascino, Jr., C. F. Industries, Inc., Salem Lake Drive, Long Grove, Illinois 60047
For: C.F. Industries, Inc.

Henry S. Manning, Jr., Joyner & Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602
For: Aluminum Company of America

Jacqueline Bernat, Alcoa Law Department, Alcoa Building, Pittsburg, Pennsylvania
For: Aluminum Company of America

Richard D. Hicks, Jr., Texfi Industries, Inc., Legal Department, 1400 Battleground Avenue, Post Office Box 20348, Greensboro, North Carolina 27420
For: Texfi Industries, Inc.

Jerry B. Fruitt, Associate Attorney General, Attorney General's Office, Raleigh Building, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Ruffin Building, Post Office Box 991, Raleigh, North Carolina 27602

Antoinette R. Wike, Associate Commission Attorney, Ruffin Building, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding is before the Commission on the Commission's Order entered herein on November 2, 1976, establishing an investigation and hearing for the purpose of considering alternative methods of pricing emergency gas and thereafter to establish a uniform policy to be followed with respect to the pricing for purchases of emergency gas by North Carolina natural gas utilities during the winter 1976-77.

The public hearing was conducted on November 23, 24 and 29, 1976, with the respondent gas utility companies, intervenors, and Commission Staff participating as shown above.

The gas utility companies offered testimony, affidavits and other evidence showing the shortage of CD-2 pipeline gas for their respective service areas. The shortage results from Orders of the Federal Power Commission curtailing the supply of natural gas from the Transcontinental Gas Pipe Line Corporation (Transco), the only source of natural gas to the North Carolina distribution companies in North Carolina (with the exception of Piedmont Natural Gas Company which receives a relatively minor supply from Carolina Pipe Line Corporation in South Carolina).

The testimony shows that the North Carolina distribution companies will be more severely impacted by the Transco curtailment for the winter season November 1, 1976, through April 1, 1977, than at any time in the five-year history of gas shortages in North Carolina. The companies have been notified of the following respective percentage curtailments from their contract supply CD-2 gas for this winter season:

| | Winter CD-2 100% L.F. Contract | Winter Entitlement 1976-77 | % Curtailment |
|---|---|---|---|
| Lexington | 1,343,900 | 508,000 | 62.2 |
| N.C. Gas | 1,570,400 | 764,000 | 51.4 |
| N.C.N.G. | 21,291,000 | 6,213,000 | 70.8 |
| Piedmont | 30,985,200 | 13,087,000 | 57.8 |
| Public Service | 22,861,400 | 10,074,000 | 55.9 |
| Shelby | 1,751,600 | 377,000 | 78.5 |
| United Cities | 1,494,900 | 548,000 | 63.3 |
| Total N.C. Supply | 81,298,400 | 31,571,000 | 61.7 |

Under the FPC ordered plan and Transco's systemwide deficiency North Carolina will receive only 38.83% of its contract entitlements of natural gas from Transco.

The Commission received extensive testimony and oral argument regarding the effect and reasonableness of the three alternative pricing methods for pricing the additional purchases of natural gas, as described in the Order of November 2, 1976, i.e., (1) incremental pricing, (2) rolled-in pricing, and (3) present Commission policy excluding residential, public housing and public school rate schedules from emergency gas pricing.

Each gas distribution company offered evidence of the amount of emergency gas needed if its firm customers in schedules O, P, Q and R were to be supplied for a normal winter period and a colder than normal or design winter period.

Purchases of emergency gas are possible under Sec. 2.68 of the Natural Gas Act Regulations which allow gas distribution companies to purchase temporary supplies of gas from other distribution companies in gas producing areas, notably Oklahoma, Louisiana and Texas on 60-day contracts, to serve only Priority 1 and Priority 2 customers, and Priority 3 if they would be Priority 2 except for firm interruptible distinction, being a restricted list of firm residential, commercial and limited firm industrial customers for process gas, feedstock gas and plant protection gas. The price for this emergency gas is not regulated by the Federal Power Commission and is available at prices averaging approximately $2.35 per Mcf. The existing cost of Transco's normal supply of CD-2 gas to the distribution companies is $1.06 per Mcf.

The Commission heard the testimony of the parties and arguments of counsel on the merits of and objections to each of the three alternative methods of pricing the emergency gas. The contentions of the Attorney General and the municipal distributors were that residential customers should not bear the cost of the gas inasmuch as the present Priority Plan of the Utilities Commission gives residential customers the highest priority and the present normal supply of CD-2 gas adequately serves the residential customers. The Attorney General contends that the emergency gas should be priced incrementally to those customers who receive it. The industrial intervenors and others who supported rolled-in pricing contended that they are firm customers who would have a supply of the lower priced gas, except for the priority system and the low level of Transco's supply, and that the residential customers who enjoy the benefit of receiving gas, to the exclusion of the firm industrial customers when the supply of CD-2 gas is short, should share the extra cost of emergency gas equally with all customers. The Commission Staff Witness, Dr. Goins, supported incremental pricing on economic grounds, stating the incremental user should be aware of the high cost of the gas he is using. R. J. Nery, Chief of the Gas Section of the Commission's Engineering Staff, testified in support of the Commission's present pricing policy to exclude residential, public housing and public school rate schedules from emergency gas pricing, with possible adjustments for the benefits received as a result of the increased volume on the application of the volume variation adjustments as it affects present rates.

Based upon all of the testimony and evidence of record, and upon consideration of all of the evidence, schedules, exhibits and arguments of the parties, the Commission makes the following

## FINDINGS OF FACT

1. That the existing shortage of natural gas from Transco for the winter season November 1, 1976, through April 1, 1977, creates an emergency for the winter heating season severely impacting some firm customers using natural gas in North Carolina and, under the Utilities Commission's priority system, the present supplies of gas from Transco will not serve firm customers in essential industrial operations and may not serve all commercial operations.

2. That in order to provide gas to all firm customers, the gas distribution companies in North Carolina must purchase additional supplies of emergency gas from distributors in Oklahoma, Texas and Louisiana under Sec. 2.68 of the Natural Gas Act Regulations at prices estimated to average $2.35 per Mcf (more than double the current price, $1.06 per Mcf, of gas from Transco).

3. That the residential customers, adequately served by present Transco gas supplies, are already paying average

charges higher per Mcf than industrial customers; that under the volume variation clause and the exploration tracking policies established by this Commission they have been and will continue to carry a fair share of their burden of supporting the natural gas service, and that their needs are met from existing supplies of Transco CD-2 flowing gas supplies.

4. That each of the five gas distribution companies in North Carolina is substantially different in its service areas and its mix of customers, in the level of gas supplies for its customers, and therefore requires different amounts of emergency natural gas. Each of the five distribution companies should make separate filing under this policy-making Order for purposes of a separate rate Order and filing of tariffs establishing the level of rates for emergency gas.

5. That a separate emergency gas surcharge should be established specifically limited to the winter season 1976-77, excluding residential customers, and that equity requires that the benefits flowing from the inclusion of the emergency gas in the volume variation or curtailment tracking adjustment should accrue to those users paying the emergency gas purchase surcharge.

## CONCLUSIONS

The Commission concludes from all of the testimony, exhibits, arguments and contentions of the parties that it is essential that each of the gas distribution companies purchase emergency gas for this winter season and that the higher cost of this gas should be surcharged on a uniform pro-rated basis to all rate customers, except residential customers. This policy will charge the added cost of the emergency gas to those who receive the benefit of the gas supplies and will exempt the residential customers on the basis that they are already supporting their fair share of the gas distribution system cost through higher average cost per Mcf and through their greater support of the drilling and exploration charges and volume variation adjustment charges during periods when they are the principal customers left on the system during heavy curtailment periods.

In this unusual situation we are providing that the benefits from the volumes of emergency gas in the volume variation and curtailment tracking adjustment shall go to mitigate the burden on those paying the surcharge for the emergency gas.

## EMERGENCY REQUIRING EARLY DETERMINATION

The present emergency created by the gas shortage for the winter season 1976-77 became known in North Carolina with the Order of the Federal Power Commission on October 8, 1976, imposing the Order 467B priority plan on North Carolina and the subsequent curtailment data released by

Transco under this Order in later October showing the increased severity of the curtailment to North Carolina. Efforts began immediately to locate emergency gas supplies and this investigation was instituted on November 2, 1976, to determine the amount of emergency gas needed and the policy to be adopted for pricing such emergency gas. The distribution companies have located supplies of emergency gas available in the gas producing areas, and it is essential that they be authorized to move immediately to acquire this supply before it is purchased by others. The colder than normal winter experienced in October and November makes it essential that gas be purchased quickly and that the customers know what the pricing policy will be.

The Attorney General and the municipal distributors have made motions to continue the proceeding for further investigation and hearing, representing as their primary objective the exemption of residential customers from the rolled-in cost of the emergency gas. Since the decision by the Commission is to exempt residential customers from the emergency surcharge, the motions to continue can be denied and the case decided without further hearings, without substantial prejudice to the position of the Attorney General and the municipal distributors.

## CONSERVATION

The Commission reemphasizes the position it has taken since the beginning of the gas shortage in its Docket No. G-100, Sub 18, on December 5, 1973, calling for all customers of natural gas companies to conserve the use of natural gas by turning thermostats down to the minimum level for human comfort and to eliminate all non-essential uses of natural gas. The impact of the high cost of emergency gas will adversely affect the economy of North Carolina through an increase in the cost of industrial products and commercial services, and all consumers of these products and services will share in the added impact of the increased cost of emergency gas supplies. Those customers who are being supplied through Transco's flowing gas supplies should conserve gas supplies so that less emergency purchase gas will be required to serve all firm customers in the future.

North Carolina is one of the most severely impacted states in the United States in the shortage of natural gas due to its unique reliance on a single supplier, Transcontinental Gas Pipe Line Corporation, which in turn is one of the most severely curtailed transmission pipelines. The action of the Federal Power Commission on October 8, 1976, in ordering Transco to curtail its customers under FPC Order 467B has deprived North Carolina of additional volumes of gas which had been available in prior years. The State of North Carolina and the Utilities Commission have participated fully in all proceedings before the Federal Power Commission and in the Courts and have appealed to the Congress in efforts to obtain additional gas supplies for North Carolina. These efforts, together with warmer than normal

winters from 1973 through 1975 have in past years alleviated the crisis which now confronts North Carolina for the winter season 1976-77.

The Utilities Commission has authorized participation in exploration and drilling programs for North Carolina distribution companies which may provide some relief in years ahead.

The Commission has also initiated an investigation before the Federal Power Commission into the delivery by Transco's gas producers not meeting contract obligations. These efforts and the efforts of Transco in its extensive advance payments programs offer the possibility of a better gas supply beginning with the summer of 1978. The conservation efforts for the winter 1976-77 thus need to be greater than in any prior year. For these reasons, the authorization for emergency gas pricing in this Order will be limited to emergency purchases for this winter heating season.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the gas distribution companies in North Carolina are hereby ordered to purchase quantities of emergency natural gas sufficient to serve their firm customers in priorities N, O, P, Q and R during a colder than normal or design winter season in accordance with the volumes required as contained in the affidavits and testimony in this docket.

2. That the natural gas distribution companies are ordered to file in separate dockets amended rate schedules or surcharge tariffs to recover the additional cost of such emergency gas purchases by adding the additional cost of such emergency gas in a uniform pro-rated Mcf surcharge to all customers except residential customers, and that the benefit from the increased volumes due to the emergency gas purchases as calculated under the volume variation adjustment or curtailment tracking adjustments and the dollars so determined shall be credited to the benefit of the customers paying the extra cost of the emergency gas.

3. That the actual rate calculations and the tariffs and other filings for the emergency purchase surcharge shall be filed in a separate emergency gas purchase rate docket established for each of the five distribution companies in North Carolina to reflect the differences in the volumes of emergency gas required for each distribution company respectively, and the mix of the customers affected by the emergency surcharge, and separate emergency purchase surcharge Orders shall be issued with a different docket number for each distribution company in order to allow consideration of the different circumstances and conditions affecting each separate company's rate schedules in a separate docket.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 29

TEAL AND PURRINGTON, COMMISSIONERS, DISSENTING: The majority decision in this docket finds that there is a shortage of natural gas. We disagree. Respondents' unrefuted testimony was that they could or already had arranged for purchases of Sec. 268 gas in sufficient quantities to meet the reasonable needs of their residential and firm industrial customers in a design winter.

The only shortage for this winter is a shortage of cheap gas, i.e., Transco's CD-2 volumes.

According to evidence of the respondent Piedmont, which is representative of the other respondents, Transco's CD-2 gas is currently priced at $.97 per mcf, a price derived by rolling in prices of volumes contracted for over many years at anywhere from $.24 to the present regulated price of $1.42. Piedmont presently has eight sources of supply ranging in price from the aforementioned CD-2 at $.97 per mcf to Piedmont's LPG at $6.38 per mcf. All of these prices are rolled in to all customers. Pass-throughs based on increased cost of gas to Transco are rolled in. The volume variation adjustment factor is rolled in. The exploration surcharge is rolled in.

The traditional pricing policy for the industry nationally and in North Carolina has been to roll in the various costs of gas to arrive at one price for gas. This is the policy with regard to Sec. 268 gas in all but one other state at this time.

There would be no question but that the price of this gas would be rolled in if the FPC would authorize Transco to purchase it. We can see no reason to change that result merely because FPC seeks to preserve the fiction that only regulated gas is sold in interstate commerce. Transco finds this Sec. 268 gas, makes the arrangements to purchase it, ascertains from its customers what volumes are required and ships those volumes to the distribution company. The only difference from Transco buying the gas is that the invoice for gas is made direct from supplier to distribution company with an additional invoice for transportation from Transco, instead of one invoice from Transco for cost of delivered gas.

The Attorney General and the Distribution Cities argued that the priority system established by this Commission should operate to allocate the lower priced gas to the

higher priority customers, and that additional purchases beyond price-regulated gas should be priced incrementally to lower priority customers.

We find no merit in this argument. The priority system established by this Commission was meant to establish priorities in case of a shortage and should not be interpreted to affect price.

The obligation placed upon the companies by their franchise is to serve the reasonable needs of the customers in the territory it serves. It is incumbent on this Commission to enforce the obligations of the franchise. The companies should be and have been ordered to purchase sufficient gas to serve the reasonable needs of their customers. All customers should share the reasonable costs incurred by the companies in meeting these reasonable needs.

There is implied in the majority opinion a reluctance to impact residential space heating customers. We share this reluctance. However, only fifteen percent (15%) of North Carolina residences are dependent on gas for heat. The Commission has provided no such special treatment for electric heating customers who must pay for higher fuel costs on a KWH basis. And there is no special pricing for the remainder who heat with oil or wood. These other groups comprise eighty-five percent (85%) of the heating load, and already pay a higher price for heating than those using the artificially priced natural gas.

The cost of this so-called "emergency" gas should be borne equally by all customers receiving gas this winter.

W. Lester Teal, Jr., Commissioner
J. Ward Purrington, Commissioner

DOCKET NO. G-100, SUB 30

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Minimum Federal Safety Standards<br>for Pipeline Facilities and<br>Transportation of Gas Under the<br>Natural Gas Pipeline Safety Act as<br>Codified in 49 USC 167, et seq. | ) | ORDER ADOPTING<br>AMENDMENTS<br>TO THE MINIMUM<br>FEDERAL SAFETY<br>STANDARDS |

BY THE COMMISSION: The Office of Pipeline Safety Operations 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. Since that time, several amendments have been proposed and adopted to the Minimum Federal Safety Standards by the Office of Pipeline Safety and, subsequently, adopted by the North Carolina Utilities Commission.

Under the provisions of G.S. 62-50, the North Carolina Utilities Commission has pipeline safety jurisdiction over all natural gas public utilities and municipal gas facilities. During 1976, the Office of Pipeline Safety Operations adopted several amendments to Part 192 of Title 49 of the Code of Federal Regulations.

These amendments were adopted under the following OPSO Docket numbers.

[I] Docket No. OPSO-34; Amdt. 192-22
Incorporation By Reference
Issued March 25, 1976

[II] Docket No. OPSO-33; Amdt. 192-23
Protecting Cast-Iron Pipelines
Issued March 25, 1976

[III] Docket No. OPSO-32; Amdt. 192-24
Emergency Plans
Issued March 25, 1976

[IV] Docket No. OPSO-36; Amdt. 192-25
Caulked Bell and Spigot Joints
Issued June 4, 1976

[V] Docket No. OPSO-23; Amdt. 192-26
Bends and Elbows
Issued June 17, 1976

[VI] Docket No. OPSO-30; Amdt. 192-27
Offshore Pipeline Facilities
Issued August 9, 1976

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 the 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 legislative mandate under provisions of G.S. 62-2 and G.S. 62-50, the above stated amendments and new additions, as adopted by the Department of Transportation in 49 CFR Part 192, should be adopted and made applicable to such pipeline facilities and facilities for transportation of natural gas under the jurisdiction of this Commission.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the following amendments 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 192 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 Carclina Safety Standards.

* * * *

[I] In consideration of the foregoing, Chapter I of Title 49 of the Code of Federal Regulations is amended as follows, effective July 1, 1976:

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

1. Section 192.145(a) is revised to read as follows: §192.145 Valves.

(a) Each valve must meet the minimum requirements, or the equivalent, of API 6A, API 6D, MSS SP-70, MSS SP-71, or MSS SP-78, except that a valve designed before July 1, 1976, may meet the minimum requirements of MSS SP-52. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those standards.

* * * *

2. Section 192.225(a) is amended to read as follows: §192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under Section IX of the 1974 edition of the ASME Boiler and Pressure Vessel Code or Section 2 of the 1973 edition of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under Section IX of the 1968 edition of the ASME Boiler and Pressure Vessel Code before July 1, 1976, or Section 2 of the 1968 edition of API Standard 1104 before March 20, 1975, may continue to be used but may not be requalified under that edition.

* * * *

3. Section 192.227(a)(1) is revised to read as follows: §192.227 Qualification of welders.

(a) * * *

(1) Section IX of the 1974 edition of the ASME Boiler and Pressure Vessel Code or, if qualified before July 1, 1976,

the 1968 edition, except that a welder may not requalify under the 1968 edition.

* * * *

4. Appendix A.I.(F) to Part 192 is amended to read as follows:

Appendix A - Incorporated by Reference

I. List of organizations and addresses.

* * * *

(F) National Fire Protection Association (NFPA), 470 Atlantic Avenue, Boston, Massachusetts 02110.

5. Appendix A.II to Part 192 is amended to read as follows:

Appendix A - Incorporated by Reference

* * * *

II. Documents incorporated by reference. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies, except that an earlier listed edition may be followed with respect to pipe or components which were manufactured, designed, or installed before July 1, 1976, unless otherwise provided in this part.

A. American Petroleum Institute:

(1) API Standard 5A "API Specification for Casing, Tubing, and Drill Pipe" (1968, 1971, 1973 plus Supp. 1).

(2) API Standard 6A "API Specification for Wellhead Equipment" (1968, 1974).

(3) API Standard 6D "API Specification for Pipeline Valves" (1968, 1974).

(4) API Standard 5L "API Specification for Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

(5) API Standard 5LS "API Specification for Spiral-Weld Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

(6) API Standard 5LX "API Specification for High-Test Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

(7) API Recommended Practice 5L1 "API Recommended Practice for Railroad Transportation of Line Pipe" (1967, 1972).

(8) API Standard 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968, 1973).

B. The American Society for Testing and Materials:

(1) ASTM Specification A53 "Standard Specification for Welded and Seamless Steel Pipe" (A53-65, A53-68, A53-73).

(2) ASTM Specification A72 "Standard Specification for Welded Wrought-Iron Pipe" (A72-64T, A72-68).

(3) ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-66, A106-68, A106-72a).

(4) ASTM Specification A134 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Plate Pipe, Sizes 16 in. and over" (A134-64, A134-68, A134-73).

(5) ASTM Specification A135 "Standard Specification for Electric-Resistance-Welded Steel Pipe" (A135-63T, A135-68, A135-73a).

(6) ASTM Specification A139 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (Sizes 4 in. and over)" (A139-64, A139-68, A139-73).

(7) ASTM Specification A155 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service" (A155-65, A155-68, A155-72a).

(8) ASTM Specification A211 "Standard Specification for Spiral-Welded Steel or Iron Pipe" (A211-63, A211-68, A211-73).

(9) ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A333-64, A333-67, A333-73).

(10) ASTM Specification A372 "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessel" (A372-67, A372-71).

(11) ASTM Specification A377 "Standard Specifications for Cast Iron and Ductile Iron Pressure Pipe" (A377-66, A377-73).

(12) ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for High-Pressure Transmission Systems" (A381-66, A381-68, A381-73).

(13) ASTM Specification A539 "Standard Specification for Electric Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines" (A539-65, A539-73).

(14) ASTM Specification B42 "Standard Specification for Seamless Copper Pipe, Standard Sizes" (B42-62, B42-66, B42-72).

(15) ASTM Specification B68 "Standard Specification for Seamless Copper Tube, Bright Annealed" (B68-65, B68-68, B68-73).

(16) ASTM Specification B75 "Standard Specification for Seamless Copper Tube" (B75-65, B75-68, B75-73).

(17) ASTM Specification B88 "Standard Specification for Seamless Copper Water Tube" (B88-66, B88-72).

(18) ASTM Specification B251 "Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube" (B251-66, B251-68, B251-72).

(19) ASTM Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D2513-66T, D2513-68, D2513-70, D2513-71, D2513-73, D2513-74a).

(20) ASTM Specification D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-66T, D2517-67, D2517-73).

C. The American National Standards Institute, Inc.:

(1) ANSI A21.1 "Thickness Design of Cast-Iron Pipe" (A21.1-1967, A21.1-1972).

(2) ANSI A21.3 "Specifications for Cast Iron Pit Cast Pipe for Gas" (A21.3-1953).

(3) ANSI A21.7 "Cast-Iron Pipe Centrifugally Cast in Metal Molds for Gas" (A21.7-1962).

(4) ANSI A21.9 "Cast-Iron Pipe Centrifugally Cast in Sand-Lined Molds for Gas" (A21.9-1962).

(5) ANSI A21.11 "Rubber-Gasket Joints for Cast-Iron and Ductile-Iron Pressure Pipe and Fittings" (A21.11-1964, A21.11-1972).

(6) ANSI A21.50 "Thickness Design of Ductile-Iron Pipe" (A21.50-1965, A21.50-1971).

(7) ANSI A21.52 "Ductile-Iron Pipe, Centrifugally Cast, in Metal Molds or Sand-Lined Molds for Gas" (A21.52-1965, A21.52-1971).

(8) ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (B16.1-1967).

(9) ANSI B16.5 "Steel Pipe Flanges, Flanged Valves and Fittings" (B16.5-1968, B16.5-1973).

(10) ANSI B16.24 "Bronze Flanges and Flanged Fittings" (B16.24-1962, B16.24-1971).

(11) ANSI B36.10 "Wrought Steel and Wrought Iron Pipe" (B36.10-1959, B36.10-1970).

(12) ANSI C1 "National Electrical Code" (C1-1968, C1-1975).

D. The American Society of Mechanical Engineers:

(1) ASME Boiler and Pressure Vessel Code, Section VIII "Pressure Vessels, Division 1" (1968, 1974).

(2) ASME Boiler and Pressure Vessel Code, Section IX "Welding Qualifications" (1968, 1974).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry:

(1) MSP-25 "Standard Marking System for Valves, Fittings, Flanges, and Union" (1964).

(2) MSS SP-44 "Steel Pipe Line Flanges" (1955, 1972, 1975).

(3) MSS SP-52 "Cast Iron Pipe Line Valves" (1957).

(4) MSS SP-70 "Cast Iron Gate Valves, Flanged and Threaded Ends" (1970).

(5) MSS SP-71 "Cast Iron Swing Check Valves, Flanged and Threaded Ends" (1970).

(6) MSS SP-78 "Cast Iron Plug Valves" (1972).

F. National Fire Protection Association:

(1) NFPA Standard 30 "Flammable and Combustible Liquids Code" (1969, 1973).

(2) NFPA Standard 58 "Standard for the Storage and Handling of Liquefied Petroleum gases" (1969, 1972).

(3) NFPA Standard 59 "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1968).

(4) NFPA Standard 59A "Storage and Handling Liquefied Natural Gas" (1971, 1972).

6. Appendix B.I to Part 192 would be amended to read as follows:

Appendix B - Qualification of Pipe

I. Listed Pipe Specifications. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies, except that an earlier listed edition may be followed with respect to pipe or components which were manufactured, designed, or installed before July 1, 1976, unless otherwise provided in this Part.

API 5L - Steel and iron pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

API 5LS - Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

API 5LX - Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975).

ASTM A53 - Steel pipe (1965, 1968, 1973).

ASTM A72 - Wrought Iron Pipe (1964T, 1968).

ASTM A106 - Steel pipe (1966, 1968, 1972a).

ASTM A134 - Steel pipe (1964, 1968, 1973).

ASTM A135 - Steel pipe (1963T, 1968, 1973a).

ASTM A139 - Steel pipe (1964, 1968, 1973).

ASTM A155 - Steel pipe (1965, 1968, 1972a).

ASTM A211 - Steel and iron pipe (1963, 1968, 1973).

ASTM A333 - Steel pipe (1964, 1967, 1973).

ASTM A377 - Cast iron pipe (1966, 1973).

ASTM A381 - Steel pipe (1966, 1968, 1973).

ASTM A539 - Steel tubing (1965, 1973).

ASTM B42 - Copper pipe (1962, 1966, 1972).

ASTM B68 - Copper tubing (1965, 1968, 1973).

ASTM B75 - Copper tubing (1965, 1968, 1973).

ASTM B88 - Copper tubing (1966, 1972).

ASTM B251 - Copper pipe and tubing (1966, 1968, 1972).

ASTM D2513 - Thermoplastic pipe and tubing (1966T, 1968, 1970, 1971, 1973, 1974a).

ASTM D2517 - Thermosetting plastic pipe and tubing (1966T, 1967, 1973).

ANSI A21.3 - Cast iron pipe (1953).

ANSI A21.7 - Cast iron pipe (1962).

ANSI A21.9 - Cast iron pipe (1962).

ANSI A21.52 - Ductile iron pipe (1965, 1971).

* * * *

(Sec. 3, Pub. L. 90-481, 82 Stat. 721 (49 USC 1672); 40 FR 43901, 49 CFR 1.53).

[II] Part 192 of Title 49 of the Code of Federal Regulations is amended as follows, effective June 1, 1976:

1. A new §192.755 is added to read as follows:

§192.755 Protecting cast-iron pipelines.

When an operator has knowledge that the support for a segment of a buried cast-iron pipeline is disturbed:

(a) That segment of the pipeline must be protected, as necessary, against damage during the disturbance by:

(1) Vibrations from heavy construction equipment, trains, trucks, buses, or blasting;

(2) Impact forces by vehicles;

(3) Earth movement;

(4) Apparent future excavations near the pipeline; or

(5) Other foreseeable outside forces which may subject that segment of the pipeline to bending stress.

(b) As soon as feasible, appropriate steps must be taken to provide permanent protection for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of §§192.317(a), 192.319, and 192.361(b)-(d).

2. A new heading is added to the Table of Sections to read as follows:

Sec.

192.755 Protecting cast-iron pipelines.

[III] §192.615 is revised to read as follows effective October 1, 1976:

§192.615 Emergency plans.

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following:

(1) Receiving, identifying, and classifying notices of events which require immediate response by the operator.

(2) Establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials.

(3) Prompt and effective response to a notice of each type of emergency, including the following:

(i) Gas detected inside or near a building.

(ii) Fire located near or directly involving a pipeline facility.

(iii) Explosion occurring near or directly involving a pipeline facility.

(iv) Natural disaster.

(4) The availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.

(5) Actions directed toward protecting people first and then property.

(6) Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.

(7) Making safe any actual or potential hazard to life or property.

(8) Notifying appropriate fire, police, and other public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency.

(9) Safely restoring any service outage.

(10) Beginning action under §192.617, if applicable, as soon after the end of the emergency as possible.

(b) Each operator shall--

(1) Furnish its supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures established under paragraph (a) of this section as necessary for compliance with those procedures.

[V] Section |92.3|3 is revised to read as follows:

§|92.3|3 Bends and elbows.

(a) Each field bend in steel pipe, other than a wrinkle bend made in accordance with §|92.3|5, must comply with the following:

(|) A bend must not impair the serviceability of the pipe.

(2) For pipe more than 4 inches in nominal diameter, the difference between the maximum and minimum diameter at a bend must not be more than 2 |/2 percent of the nominal diameter.

(3) Each bend must have a smooth contour and be free from buckling, cracks, or any other mechanical damage.

(4) On pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend.

(b) Each circumferential weld of steel pipe which is located where the stress during bending causes a permanent deformation in the pipe must be nondestructively tested either before or after the bending process.

(c) Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches or more in diameter unless the arc length, as measured along the crotch, is at least | inch.

[VI] |. Section |92.|(b) is amended to read as follows:

§|92.| Scope of part.

* * * * *

(b) This part does not apply to--

(|) Offshore gathering of gas upstream from the outlet flange of each facility on the outer continental shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; and

(2) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

2. Section |92.3 is amended by adding the following new definition in alphabetical order:

(2) Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.

(3) Review employee activities to determine whether the procedures were effectively followed in each emergency.

(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to--

(1) Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;

(2) Acquaint the officials with the operator's ability in responding to a gas pipeline emergency;

(3) Identify the types of gas pipeline emergencies of which the operator notifies the officials; and

(4) Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

(d) Each operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

[IV] §192.753(a) is revised to read as follows:

§192.753 Caulked bell and spigot joints.

(a) Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 psig or more must be sealed with:

(1) A mechanical leak clamp; or

(2) A material or device which

(i) Does not reduce the flexibility of the joint;

(ii) Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and

(iii) Seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of §§192.53(a) and (b) and 192.143.

§|92.3 Definitions.

* * * * *

"Offshore" means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

* * * * *

3. Section |92.5(a) is amended to read as follows:

§|92.5 Class locations.

(a) Offshore is Class | location. The Class location onshore is determined by applying the criteria set forth in this section: The class location unit is an area that extends 220 yards on either side of the center line of any continuous |-mile length of pipeline. Except as provided in paragraphs (d)(2) and (f) of this section, the class location is determined by the buildings in the class location unit. For the purposes of this section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

* * * * *

4. In §|92.|3, paragraphs (a) and (b) are amended to read as follows:

§|92.|3 General.

(a) No person may operate a segment of pipeline that is readied for service after March |2, |97|, or in the case of an offshore gathering line, after July 3|, |977, unless that pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part.

(b) No person may operate a segment of pipeline that is replaced, relocated, or otherwise changed after November |2, |970, or in the case of an offshore gathering line, after July 3|, |977, unless that replacement, relocation, or change has been made in accordance with this part.

* * * * *

5. Section |92.|||(d) is revised to read as follows:

§|92.||| Design factor (F) for steel pipe.

* * * * *

(d) For Class | and Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in §|92.|05 for--

(1) Steel pipe in a compressor station, regulating station, or measuring station; and
(2) Steel pipe, including a pipe riser, on a platform located offshore or in inland navigable waters.

6. Section 192.161(f) is amended to read as follows:

§192.161 Supports and anchors.

* * * * *

(f) Except for offshore pipelines, each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent lateral and vertical movement.

7. Section 192.163(a) is revised to read as follows:

§192.163 Compressor stations; design and construction.

(a) Location of compressor building. Except for a compressor building on a platform located offshore or in inland navigable waters, each main compressor building of a compressor station must be located on property under the control of the operator. It must be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being communicated to the compressor building from structures on adjacent property. There must be enough open space around the main compressor building to allow the free movement of fire-fighting equipment.

* * * * *

8. In §192.167, paragraph (a)(4)(ii) is amended and a new paragraph (c) is added to read as follows:

§192.167 Compressor stations: emergency shutdown.

(a) * * *
(4) * * *
(ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and

* * * * *

(c) On a platform located offshore or in inland navigable waters, the emergency shutdown system must be designed and installed to actuate automatically by each of the following events:
(1) In the case of an unattended compressor station--
(i) When the gas pressure equals the maximum allowable operating pressure plus 15 percent; or
(ii) When an uncontrolled fire occurs on the platform; and
(2) In the case of a compressor station in a building--
(i) When an uncontrolled fire occurs in the building; or

(ii) When the concentration of gas in air reaches 50 percent or more of the lower explosive limit in a building which has a source of ignition.

For the purpose of paragraph (c)(2)(ii) of this section, an electrical facility which conforms to Class I, Group D of the National Electrical Code is not a source of ignition.

9. In §192.179, a new paragraph (d) is added to read as follows:

§192.179 Transmission line valves.

* * * * *

(d) Offshore segments of transmission lines must be equipped with valves or other components to shut off the flow of gas to an offshore platform in an emergency.

10. In §192.243, paragraphs (d)(1) and (3) are amended to read as follows:

§192.243 Nondestructive testing.

* * * * *

(d) * * *
(1) In Class 1 locations, except offshore, at least 10 percent.

* * * * *

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, and offshore, 100 percent if practicable, but not less than 90 percent.

* * * * *

11. Section 192.245 is amended to read as follows:

§192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under §192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead.

(b) Each weld that is repaired must have the defect removed down to clean metal and the segment to be repaired must be preheated. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability. If the repair is not acceptable, the weld must be removed, except that additional repairs made in accordance with written welding procedures qualified under §192.225 are permitted for welds on an offshore pipeline being installed from a pipelay vessel.

|2. Section |92.3|7 is amended to read as follows:

§|92.3|7 Protection from hazards.

(a) Each transmission line or main must be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, offshore pipelines must be protected from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

(b) Each aboveground transmission line or main, not located offshore or in inland navigable water areas, must be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from the traffic or by installing barricades.

(c) Pipelines, including pipe risers, on each platform located offshore or in inland navigable waters must be protected from accidental damage by vessels.

|3. In §|92.3|9, paragraph (b) is amended and a new paragraph (c) is added to read as follows:

§|92.3|9 Installation of pipe in a ditch.

* * * * *

(b) When a ditch for a transmission line or main is backfilled, it must be backfilled in a manner that--

(|) Provides firm support under the pipe; and

(2) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.

(c) All offshore pipe in water at least |2 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

|4. In §|92.327, paragraph (a) is amended and paragraph (e) is added to read as follows:

§|92.327 Cover.

(a) Except as provided in paragraphs (c) and (e) of this section, each buried transmission line must be installed with a minimum cover as follows:

* * * * *

(e) All pipe which is installed in a navigable river, stream, or harbor must have a minimum cover of 48 inches in soil or 24 inches in consolidated rock, and all pipe installed in any offshore location under water less than |2 feet deep, as measured from mean low tide, must have a minimum cover of 36 inches in soil or |8 inches in consolidated rock, between the top of the pipe and the

natural bottom. However, less than the minimum cover is permitted in accordance with paragraph (c) of this section.

15. In §192.451, the existing paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§192.451 Scope.

* * * * *

(b) Notwithstanding the deadlines for compliance in this subpart, the corrosion control requirements of this subpart do not apply to offshore gathering lines until August 1, 1977.

16. Section 192.465(a) is amended to read as follows:

§192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

* * * * *

17. Section 192.469 is amended to read as follows:

§192.469 External corrosion control: test stations.

Each pipeline under cathodic protection required by this subpart must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection.

18. Section 192.481 is amended to read as follows:

§192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of §§192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and 1 year for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.

19. The table in §192.619(a)(2)(ii) is amended to read as follows:

§192.619 Maximum allowable operating pressure: steel or plastic pipelines.

(a) * * *
(2) * * *
(ii) * * *

| Factors 1/ | | |
|---|---|---|
| Class location | Segment installed before (Nov. 12, 1970) | Segment installed after (Nov. 11, 1970) |
| 1 | 1.1 | 1.1 |
| 2 | 1.25 | 1.25 |
| 3 | 1.4 | 1.5 |
| 4 | 1.4 | 1.5 |

1/ For offshore segments installed or uprated after July 31, 1977, that are not located on a platform, the factor is 1.25. For segments installed or uprated after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

* * * * *

20. In §192.707(b), subparagraphs (1) and (2) are redesignated as (2) and (3), respectively, and a new subparagraph (1) is added, to read as follows:

§192.707 Transmission lines: leakage surveys.

* * * * *

(b) Exceptions for buried pipelines. Line markers are not required for buried mains and transmission lines--
(1) Located offshore or under inland navigable waters;

* * * * *

21. Section 192.713 is amended to read as follows:

§192.713 Transmission lines: permanent field repair of imperfections and damages.

(a) Except as provided in paragraph (b) of this section, each imperfection or damage that impairs the serviceability of a segment of steel transmission line operating at or above 40 percent of SMYS must be repaired as follows:
(1) If it is feasible to take the segment out of service, the imperfection or damage must be removed by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.
(2) If it is not feasible to take the segment out of service, a full encirclement welded split sleeve of

appropriate design must be applied over the imperfection or damage.

(3) If the segment is not taken out of service, the operating pressure must be reduced to a safe level during the repair operations.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the imperfection or damage.

22. Section 192.717 is amended to read as follows:

§192.717 Transmission lines: permanent field repair of leaks.

(a) Except as provided in paragraph (b) of this section, each permanent field repair of a leak on a transmission line must be made as follows:

(1) If feasible, the segment of transmission line must be taken out of service and repaired by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(2) 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--

(i) Is joined by mechanical couplings; and

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

(3) If the leak is due to a corrosion pit, the repair may be made by installing a properly designed bolt-on-leak clamp; or, if the leak is due to a corrosion pit and on pipe of not more than 40,000 psi SMYS, the repair may be made by fillet welding over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the leak.

23. In §192.727, paragraphs (b) and (c) are amended to read as follows:

§192.727 Abandonment or inactivation of facilities.

* * * * *

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. 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; in the

case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

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

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

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of December, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. GE-1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Piedmont Natural Gas Company, Inc.; Public Service Company of North Carolina, Inc.; North Carolina Natural Gas Company; Pennsylvania and Southern Gas Company; and United Cities Gas Company for Approval of a Gas Exploration and Drilling Joint Venture | ) ORDER<br>) APPROVING<br>) EXPLORATION<br>) AND<br>) DRILLING<br>) VENTURE |

BY THE COMMISSION: The Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, approved a rulemaking procedure by which the natural gas utility distribution companies in North Carolina could participate in petroleum exploration and drilling activities designed to increase the supply of natural gas available for consumers in North Carolina. Further Orders of the Commission provided that 75% of those exploration expenses which could not properly or prudently be paid from internally generated funds would be "tracked," and the companies would file for a rate increase or decrease, due to exploration activities, approximately every six months based on the costs of such activities, offset by the revenues generated by such activities.

The Commission is now in receipt of an application and supporting data from the five North Carolina natural gas distribution utility companies requesting approval of a new proposed exploration and drilling joint venture with Transco Exploration Company - McMoRan Exploration Company (Transmac) and others. Such application and data were filed in the manner required by Commission Rule R1-17(h). The Commission

Staff has had opportunity to review the new data and has found it to be proper in form and content.

Based upon the data received at the G-100, Sub 22, hearing and the supplemental data recently filed, the Commission now makes the following

FINDINGS OF FACT

1. The name of the program is the Transmac Joint Venture, Chandeleur Sound, Block 59 Prospect.

2. The operator of the program is McMoRan Exploration Company, 3400 The Plaza Tower, New Orleans, Louisiana, whose success record for exploration and development of new sources of natural gas supply meets or exceeds industry-wide standards.

3. All of the five North Carolina natural gas utilities (Piedmont, Public Service, N. C. Natural, N. C. Gas Service and United Cities) request permission to join as limited partners in the joint venture.

4. The initial duration of the program is proposed to be the length of time necessary to drill one well and evaluate this prospect. Since the lease concerns a farmout from Amoco Production Company, it is anticipated that the well test should be successful. If so, a completion and development program will be required, which will continue until depletion of the reservoir(s).

5. The presently proposed program would have a total cost of $1,443,430, including exploration expenses and development expenses, if the discoveries are as presently anticipated. Of these expenses, $242,330 are allocated to exploration and $1,201,100 to completion and development.

6. The exploration charges for the participating North Carolina companies will be $40,954 allocated as follows: Public Service - $13,134; Piedmont - $13,134; N. C. Natural - $13,134; United Cities - $776; and N. C. Gas Service - $776. McMoRan Exploration Company (the operator) will make a $52,513 investment in exploration and other natural gas distribution and exploration companies will put up the balance of $242,330 for exploration.

7. Development charges for the five participating North Carolina companies, assuming a successful test well is drilled, will amount to $152,059 allocated as follows: Public Service - $48,765; Piedmont - $48,765; N. C. Natural - $48,765; United Cities - $2,882; and N. C. Gas Service - $2,882. McMoRan Exploration Company will invest $430,354 and other participants will invest the $618,687 balance of the $1,201,100 development cost.

8. Assuming reasonable accuracy of the geological and geophysical data estimates of the area provided by Transco,

the program should result in total reserve discoveries of 40,000,000 Mcf. The share of the five participating North Carolina utilities would be 2,024,000 Mcf, after deducting assumed landowner and other royalties of 20%.

9. The 2,024,000 Mcf of gas in-place estimated to be secured by this Transmac Joint Venture will be available to the five participating natural gas distributors at an in-place cost of $193,013 or a cost of $.0954 (approximately 9.5¢/Mcf) per Mcf. At the present interstate price of $.52 per Mcf, the same volume of gas would cost $1,052,480.

10. The McMoRan Exploration Company program, if it has just average success, will reduce the cost of gas to the five utilities by $859,467. This reduction will be passed on in the form of lower rates. In addition, the additional volumes will benefit the utilities' customers through application of the volume variation adjustment factor heretofore approved for all five utilities by the Commission.

11. Based upon the experience of qualified operators, such as McMoRan Exploration Company, in the area in which the funds will be expended and the recommendation of the Committee established pursuant to R1-17(h)(1) of the Commission's Rules and Regulations, the Commission is of the opinion that there is a reasonable prospect that the program will produce natural gas reserves deliverable to North Carolina in sufficient quantities to justify the proposed expenditures.

12. The estimated cost of finding gas through the proposed Transmac Joint Venture is substantially less than the $3.00 to $5.00 estimated cost of alternate supplies and such estimated cost is, therefore, reasonable in relation to possible alternate supplies.

Based upon the foregoing Findings of Fact, the Commission concludes that the proposed exploration and development program is just and reasonable under the standards adopted by the Commission in its Rulemaking Order issued June 26, 1975, and in Commission Rule R1-17(h), and that such program merits the approval of the Commission herein, subject to further Commission scrutiny at the time the five utilities file for such changes in rates as may be necessary to recoup costs and account for revenues associated with the program.

IT IS, THEREFORE, ORDERED:

1. That the Transmac Joint Venture in Chandeleur Sound in the form presented to the Commission be, and the same is hereby, approved and the five participating North Carolina natural gas utilities are hereby authorized as a group to subscribe to or participate in such program either directly or through wholly-owned subsidiaries.

2. That the approval of participation in such Joint Venture be, and the same is hereby, limited to the participation amounts discussed hereinabove and is further limited in time to a period of three years from and after the first expenditure of funds by the participating North Carolina utilities.

3. That renewals, if any, of this Joint Venture for additional investment amounts and extended duration shall be subject to future approval by the Commission upon receipt of an application for such approval.

4. That the Chairman of the Exploration Committee formed pursuant to Commission Rule R1-17(h)(1) shall file with the Commission copies of all information, data and reports furnished by Transco to the Committee or to the five North Carolina gas utilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. GE-2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of Application of Piedmont Natural Gas Company, Inc.; Public Service Company of North Carolina, Inc.; North Carolina Natural Gas Corporation; Pennsylvania and Southern Gas Company; and United Cities Gas Company for Approval of a Gas Exploration and Drilling Joint Venture | ORDER APPROVING EXPLORATION AND DRILLING VENTURE |

BY THE COMMISSION: The Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, approved a rulemaking procedure by which the natural gas utility distribution companies in North Carolina could participate in petroleum exploration and drilling activities designed to increase the supply of natural gas available for consumers in North Carolina. Further Orders of the Commission provided that 75% of those exploration expenses which could not properly or prudently be paid from internally generated funds would be "tracked," and the companies would file for a rate increase or decrease, due to exploration activities, approximately every six months based on the costs of such activities, offset by the revenues generated by such activities.

The Commission is now in receipt of an application and supporting data from the five North Carolina natural gas distribution utility companies requesting approval of a new proposed exploration and drilling joint venture. Such application and data were filed in the manner required by Commission Rule R1-17(h). The Commission Staff has had opportunity to review the new data and has found it to be proper in form and content.

Based upon the data received at the G-100, Sub 22, hearing and the supplemental data recently filed herein, the Commission now makes the following

FINDINGS OF FACT

1. The name of the program is Drilling of Hope Plantation Prospect, Iberia Parish, Louisiana.

2. The operator of the program is Transco Exploration Company, 2700 South Post Oak Road, Houston, Texas, whose success record for exploration and development of new sources of natural gas supply meets or exceeds industry-wide standards.

3. All of the five North Carolina natural gas utilities (Piedmont, Public Service, N. C. Natural, N. C. Gas Service and United Cities) request permission to join as limited partners in the joint venture.

4. The initial duration of the program is proposed to be the length of time necessary to drill one well to evaluate this prospect. If the well is dry and the prospect has been fully evaluated, the program would terminate upon not renewing the leases. If completion and development is required, the program would continue until depletion of the reservoir(s). It is estimated that three development wells would be required.

5. The presently proposed program would have a total cost of $3,749,509, including exploration, completion and development expenses, if the discoveries are as anticipated and if three development wells (plus the test well) are drilled. Of these expenses, $644,709 are allocated to exploration and $3,104,800 to completion and development.

6. The exploration charges for the participating North Carolina companies will be $402,943 allocated as follows: Public Service - $108,795; Piedmont - $169,237; N. C. Natural - $108,795; United Cities - $8,058; and N. C. Gas Service - $8,058. Transco Exploration Company (the operator) will make a $241,766 investment in exploration.

7. Completion and development charges for the five participating North Carolina companies, assuming completion of the test well and the drilling of three development wells, will amount to $1,552,400 allocated as follows: Public Service - $419,148; Piedmont - $652,010; N. C.

Natural - $419,148; United Cities - $31,047; and N. C. Gas Service - $31,047. Transco Exploration Company will also invest a total of $1,552,400 in completion and development.

8. Assuming reasonable accuracy of the geological and geophysical data estimates of the area provided by Transco, the program should result in total reserve discoveries of 40,000,000 Mcf. The share of the five participating North Carolina utilities would be 15,000,000 Mcf, after deducting assumed landowner revenue royalty interest of 24%.

9. The 15,000,000 Mcf of gas in-place estimated to be secured by this program will be available to the five participating natural gas distributors at an estimated in-place cost of $1,954,900 or a cost of $.1303 (approximately 13¢/Mcf) per Mcf. At the present interstate price of $.52 per Mcf, the same volume of gas would cost $7,800,000.

10. The Transco Exploration Company program, if it has just average success, will reduce the cost of this estimated volume of gas to the five utilities by $5,845,100. This reduction will be passed on to North Carolina consumers in the form of lower rates. In addition, the additional volumes will benefit the utilities' customers through application of the volume variation adjustment factor heretofore approved for all five utilities by the Commission.

11. Based upon the experience of qualified operators, such as Transco Exploration Company, in the area in which the funds will be expended and the recommendation of the Committee established pursuant to section R1-17(h)(1) of the Commission's Rules and Regulations, the Commission is of the opinion that there is a reasonable prospect that the program will produce natural gas reserves deliverable to North Carolina in sufficient quantities to justify the proposed expenditures.

12. The estimated cost of finding gas through the proposed Transco Exploration Company program is substantially less than the $3.00 to $5.00 estimated cost of alternate supplies and such estimated cost is, therefore, reasonable in relation to possible alternate supplies.

Based upon the foregoing Findings of Fact, the Commission concludes that the proposed program is just and reasonable under the standards adopted by the Commission in its Rulemaking Order issued June 26, 1975, and Commission Rule R1-17(h), and that such program merits the approval of the Commission herein, subject to further Commission scrutiny at the time the five utilities file for such changes in rates as may be necessary to recoup costs and account for revenues associated with the program.

IT IS, THEREFORE, ORDERED:

1. That the Transco Exploration Company Joint Venture in the form presented to the Commission be, and the same is hereby, approved and the five participating North Carolina natural gas utilities are hereby authorized as a group to subscribe to or participate in such program either directly or through wholly-owned subsidiaries.

2. That the approval of participation in such Joint Venture be, and the same is hereby, limited to the participation amounts discussed hereinabove and is further limited in time to a period of three years from and after the first expenditure of funds by the participating North Carolina utilities.

3. That renewals, if any, of this Joint Venture for additional investment amounts and extended duration shall be subject to future approval by the Commission upon receipt of an application for such approval.

4. That the Chairman of the Exploration Committee formed pursuant to Commission Rule R1-17(h)(1) shall file with the Commission copies of all information, data and reports furnished by Transco to the Committee or to the five North Carolina gas utilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of Mebane Home Telephone Company | ) REQUIREMENT<br>) OF FLOW<br>) THROUGH OF<br>) REVENUES<br>) EFFECTIVE<br>) MARCH 15, 1976 |

BY THE COMMISSION: On December 19, 1975, the Commission issued its order requiring Mebane Home Telephone Company to file revised tariffs on or before February 1, 1976, to be effective on all billings on and after February 15, 1976, to reduce color charges up to $3,246. The $3,246 amount represents one-half of $6,492 of the additional revenue the Commission estimated this Company would receive on an annual basis from increased intrastate toll rates and related

services placed into effect on July 1, 1975 in the subject docket.

Under date of January 21, 1976, Mebane Home Telephone Company by letter advised the Commission of its intent to file a rate case by mid-August, 1976 and therefore, requested to be relieved of flowing through to the subscribers, the revenue requirement as ordered in Commission order of December 19, 1975 as mentioned above. The Commission by order of January 29, 1976 granted this request subject to the Company (1) filing a rate case by August 15, in order that the same may be considered therein or (2) submitting rate case data to establish its rate of return in order that the Commission may consider the reasonableness thereof.

The Commission upon reconsideration of this matter concluded that the deferment of flow through of revenues as granted by order of January 29, 1976 should be rescinded and that Mebane Home Telephone Company should proceed with flow through in accordance with Commission Order of December 19, 1975.

IT IS, THEREFORE, ORDERED:

1. That Mebane Home Telephone Company shall comply with Commission order of December 19, 1975, by filing revised tariffs to be effective on all billings on and after March 15, 1976, to reduce color charges up to $3,246.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of Mid-Carolina Telephone Company | ) REQUIREMENT OF<br>) FLOW THROUGH<br>) OF REVENUES<br>) EFFECTIVE<br>) MARCH 15, 1976 |

BY THE COMMISSION: On December 19, 1975, the Commission issued its order requiring Mid-Carolina Telephone Company to file revised tariffs on or before February 1, 1976, to be effective on all billings on and after February 15, 1976, to reduce rural zone charges and miscellaneous rates to unify these rates and charges for all exchanges of the merged

companies to flow through up to $11,706. The $11,706 amount represents one-half of $23,412 of the additional revenue the Commission estimated this Company would receive on an annual basis from increased intrastate toll rates and related services placed into effect on July 1, 1975 in the subject docket.

Under date of January 19, 1976, Mid-Carolina Telephone Company by letter advised the Commission of its intent to file a rate case by May 1, 1976 and therefore, requested to be relieved of flowing through to the subscribers, the revenue requirement as ordered in Commission order of December 19, 1975 as mentioned above. The Commission by order of January 29, 1976 granted this request subject to the Company (1) filing a rate case by May 1, 1976 in order that the same may be considered therein or (2) submitting rate case data to establish its rate of return in order that the Commission may consider the reasonableness thereof.

The Commission upon reconsideration of this matter concluded that the deferment of flow through of revenues as granted by order of January 29, 1976 should be rescinded and that Mid-Carolina Telephone Company should proceed with flow through in accordance with Commission Order of December 19, 1975.

IT IS, THEREFORE, ORDERED:

1. That Mid-Carolina Telephone Company shall comply with Commission order of December 19, 1975, by filing revised tariffs to be effective on all billings on and after March 15, 1976 to reduce zone charges and miscellaneous rates to unify these rates and charges for all exchanges of the merged company up to $11,706.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of Norfolk & Carolina Telephone Company | ) ) ) ) ) | ORDER AMENDING FLOW THROUGH REQUIREMENTS |

BY THE COMMISSION: On December 19, 1975 the Commission issued its Order in the subject docket requiring that Norfolk and Carolina Telephone and Telegraph Company flow through to its subscribers $82,395.24 of revenue resulting from increased intrastate toll rates and increased local rates at its Gatesville exchange.

As the result of a conference held by the Commission with company representatives, the Commission concludes that it will alter the requirements by allowing the company to increase its service charge tariffs to the level of those approved for Carolina Telephone and Telegraph Company in Docket No. P-7, Sub 601, but, continuing the same flow through requirements as in the Commission's Order of December 19, 1975 mentioned above. This action will have the effect of reducing the flow through by approximately $28,000 over the original requirement.

IT IS, THEREFORE, ORDERED as follows:

(1) That Norfolk and Carolina Telephone and Telegraph Company is hereby authorized to increase its service charges in accordance with Appendix "A" attached on all service after February 15, 1976, but not before it has filed appropriate tariffs.

(2) That Norfolk and Carolina Telephone and Telegraph Company shall file with the Commission on or before May 15, 1976, the service charge tariff attached hereto as Appendix "B",* and proposed service charges that will approximately offset the revenues produced by the current service charge tariff in effect as a result of this Order and with full explanation of how the current and proposed revenues were determined. The proposed tariffs are to be filed with a proposed effective date of July 1, 1976.

(3) That the ordering paragraphs of the Commission's December 19, 1976 order in this matter shall remain unchanged.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

* See official Order in the Office of the Chief Clerk.

APPENDIX "A"
Norfolk & Carolina Telephone and Telegraph Company
Docket No. P-100, Sub 34

SERVICE CHARGES

| | Residence | Business |
|---|---|---|
| Installation, Main | | |
| Service Order | 14.00 | 21.00 |
| Equipment Work | | |
| Main | 4.00 | 6.00 |
| Extension | 2.50 | 3.75 |
| Access Line Work | 6.00 | 9.00 |
| Installation, Extension | | |
| Service Order | 10.00 | 15.00 |
| Equipment Work | | |
| First | 3.00 | 4.50 |
| Additional | 2.50 | 3.75 |
| Inside Move or Change | | |
| Service Order | 10.00 | 15.00 |
| Equipment Work | | |
| First | 3.00 | 4.50 |
| Additional | 2.50 | 3.75 |
| Number Change | 11.50 | 11.50 |
| Restoration, Non-pay | 11.50 | 11.50 |
| Restoration, Vacation | 11.50 | 11.50 |

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of | | |
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of North Carolina Telephone Company | ) ) ) ) | REQUIREMENT OF FLOW THROUGH OF REVENUES EFFECTIVE MARCH 15, 1976 |

BY THE COMMISSION: On December 19, 1975, the Commission issued its order requiring North Carolina Telephone Company to file revised tariffs on or before February 1, 1976, to be effective on all billings on and after February 15, 1976, to reduce rural zone charges on an overall percentage basis, after making a flat zone charge, seven miles and beyond, to flow through $84,492, or as an option, reduce color charges up to 1/3 of the amount, the balance to be in zone charges. The $84,492 amount represents one-half of $168,948 of the additional revenue the Commission estimated this Company would receive on an annual basis from increased intrastate toll rates and related services placed into effect on July 1, 1975 in the subject docket.

Under date of January 19, 1976, North Carolina Telephone Company by letter advised the Commission of its intent to file a rate case by June 1, 1976 and therefore, requested to be relieved of flowing through to the subscribers, the revenue requirement as ordered in Commission order of December 19, 1975 as mentioned above. The Commission by order of January 29, 1976 granted this request subject to the Company (1) filing a rate case by June 1, 1976 in order that the same may be considered therein or (2) submitting rate case data to establish its rate of return in order that the Commission may consider the reasonableness thereof.

The Commission upon reconsideration of this matter concluded that the deferment of flow through of revenues as granted by order of January 29, 1976 should be rescinded and that North Carolina Telephone Company should proceed with flow through in accordance with Commission Order of December 19, 1975.

IT IS, THEREFORE, ORDERED:

1. That North Carolina Telephone Company shall comply with Commission order of December 19, 1975, by filing revised tariffs to be effective on all billings on and after March 15, 1976, to reduce rural zone charges on an overall percentage basis after making a flat zone charge, seven miles and beyond, to flow through $84,492, or as an option reduce color charges up to 1/3 of the amount, the balance to be on zone charges.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of Old Town Telephone Systems, Inc. | ) ) ) ) | REQUIREMENT OF FLOW THROUGH OF REVENUES EFFECTIVE MARCH 15, 1976 |

BY THE COMMISSION: On December 19, 1975, the Commission issued its Order requiring Old Town Telephone Systems, Inc. to file revised tariffs on or before February 1, 1976, to be effective on all billings on and after February 15, 1976, to reduce all residence main station telephones by 15¢ a month. This reduction represents one-half of $40,776 of the

additional revenue the Commission estimated this Company would receive on an annual basis from increased intrastate toll rates and related services placed into effect on July 1, 1975 in the subject docket.

Under date of January 19, 1976, Old Town Telephone Systems, Inc. by letter advised the Commission of its intent to file a rate case by May 1, 1976 and therefore, requested to be relieved of flowing through to the subscribers, the revenue requirement as ordered in Commission order of December 19, 1975 as mentioned above. The Commission by order of January 29, 1976 granted this request subject to the Company (1) filing a rate case by May 1, 1976 in order that the same may be considered therein or (2) submitting rate case data to establish its rate of return in order that the Commission may consider the reasonableness thereof.

The Commission upon reconsideration of this matter concluded that the deferment of flow through of revenues as granted by order of January 29, 1976 should be rescinded and that Old Town Telephone Systems, Inc. should proceed with flow through in accordance with Commission Order of December 19, 1975.

IT IS, THEREFORE, ORDERED:

1. That Old Town Telephone System, Inc. shall comply with Commission Order of December 19, 1975 by filing revised tariffs to be effective on all billings on and after March 15, 1976 to reduce all residence main station telephones by 15¢ a month.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| The Flowing Through of Intrastate Toll, WATS and Interexchange Private Line Rates and Charges Revenue to the Rate Paying Public In the Service Area of United Telephone Company of the Carolinas, Inc. | ) ) ) ) | REQUIREMENT OF FLOWING THROUGH OF REVENUES |

BY THE COMMISSION: On July 1, 1975, the Commission issued its order in Docket Numbers P-55, Sub 742 and P-100, Sub 34 giving notice of requirements for submission of information relating to an investigation of intrastate toll rates, WATS

and interexchange private line rates and charges, the order reading as follows:

"On July 19, 1974, Southern Bell Telephone and Telegraph Company, P.O. Box 240, Charlotte, North Carolina, 28201 (hereinafter Southern Bell) filed an application with the Commission for authority to adjust its intrastate rates and charges to its North Carolina customers. Included in the application was a request to increase intrastate toll, WATS and inter-exchange private line rates and charges amounting to approximately $8,000,000 in additional annual revenues. The independent telephone companies would realize, if Southern Bell's rate application were finally approved as requested, additional annual revenues of 8.2 million dollars by virtue of contractual agreements regarding toll settlements under the historical policy of uniform toll rates.

By Order of August 5, 1974, the Commission separated Southern Bell's request to adjust its North Carolina intrastate toll, WATS and inter-exchange private line rates and charges from Docket No. P-55, Sub 742 and assigned those matters to Docket No. P-100, Sub 34 and set the same for investigation, hearing and decision. The Order of the Commission made all other telephone companies under the jurisdiction of the Commission parties and consolidated Docket No. P-100, Sub 34 for hearing with Docket No. P-55, Sub 742.

On June 25, 1975, Southern Bell advised the Commission by letter and tariff filing that pursuant to G.S. 62-134(b) Southern Bell would place into effect on or after July 1, 1975, the schedule of rates for intrastate toll, WATS and inter-exchange private line as applied for in its application of July 19, 1974. Following Southern Bell's notice to the Commission the other telephone companies which the Commission had heretofore made parties to this proceeding also filed tariffs to place the same toll rates and charges into effect on July 1, 1975. The filings by the independent companies follow the historical policy of maintaining uniform toll rates in the public interest.

The Commission recognizes that Southern Bell and the independent telephone companies have placed these rates for intrastate service into effect under G.S. 62-134(b).

The Commission concludes that Southern Bell and the independent companies should file certain information regarding the reasonableness of their retention of the toll rate increases placed into effect under G.S. 62-134(b), and, specifically, if each independent telephone company's local ratepayers should not receive offsetting reductions in their rates and charges.

Hearings were held in Docket P-100, Sub 34 on January 2nd and 3rd, 1975. In accordance with the procedure used in the past, the Commission does not anticipate entering any order

in Docket No. P-100, Sub 34 until after hearings have been held and a decision has been entered in Docket No. P-55, Sub 742.

IT IS, THEREFORE, ORDERED as follows:

1. That Southern Bell shall furnish written monthly reports beginning September 1, 1975, to the Commission showing the total effect in billed intrastate toll revenues and in intrastate toll settlements resulting from the increases in all intrastate toll rates for each telephone company including Southern Bell. Southern Bell shall furnish each connecting company the revenue effect applicable to it. Prior to filing the required monthly report with the Commission Southern Bell shall obtain written agreement to be filed at that time of each independent company with regard to the accuracy of the filed revenue effect data in Docket No. P-100, Sub 34.

2. That each independent company not having a general rate application before the Commission on June 30, 1975, shall file within ninety (90) days from the date of this order a detailed report showing clearly justification for retention of toll revenues and a plan to flow through ultimately to its local ratepayers decreased rates based on the increased toll rate revenue effect.

3. That each telephone company having a general rate application before the Commission pending on June 30, 1975, shall file monthly revenue reports as required for other companies and the data filed by such companies will be pro formed into the appropriate test year established by the Commission in such pending rate cases.

4. For each telephone company whose position is that the amount of additional revenue placed into effect under G.S. 62-134(b) is de minimis or for other reasons such company should not flow through such increases to its local ratepayers, any such company shall file data supporting its position in detail within ninety (90) days from the date of this order."

The monthly reports submitted by Southern Bell show revenues increases for United Telephone Company of the Carolinas, Inc., of $31,382, $30,521 and $31,615 respectively for the months of July, August and September for a three month average of $31,173 or $374,076, annualized.

United Telephone Company in its letter of September 22, 1975 contended they should be allowed to retain the revenues resulting from the increased toll, WATS and interexchange private lines rates which were effective July 1, 1975 because among other reasons, the amount of revenue was de minimis. Since, United advised the Commission under date of November 17, 1975 of its intentions to file a rate case, no flow through was required. By letter of March 2, 1976

United advised the Commission that the Company had as of that date not resolved when a rate case would be filed.

The Commission after considering the Company's contentions, concludes that United Telephone Company of the Carolinas, Inc. should flow through one-half or up to $187,036 by reducing or eliminating zone charges.

IT IS, THEREFORE, ORDERED that United Telephone Company of the Carolinas, Inc., shall file revised tariffs, effective on all billings on and after March 15, 1976 to reduce or eliminate zone charges up to $187,036.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 205

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>NORTH CAROLINA PUBLIC INTEREST RESEARCH GROUP, INC.,<br><br>JESSE L. RILEY,<br>Complainants<br><br>v.<br><br>DUKE POWER COMPANY,<br>Defendant | ) | ORDER DISMISSING COMPLAINT |

HEARD: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, September 15, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, J. Ward Purrington, and W. Scott Harvey

APPEARANCES:

For the Complainants:

Judith E. Kincaid, Attorney at Law, North Carolina Public Interest Research Group, Post Office Box 2901, Durham, North Carolina 27701

Carol J. Jennings, Attorney at Law, Media Access Project, 1912 N. Street, N.W., Washington, D.C. 20036

Harvey J. Shulman, Attorney at Law, Media Access Project, 1912 N. Street, N.W., Washington, D.C. 20036

For the Respondent:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

Steve C. Griffith, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

Charles S. Carter, Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Commission Staff:

Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding was initiated on May 24, 1976, with the filing of a Complaint by North Carolina Public Interest Research Group, Inc. (PIRG), and Jesse L. Riley (Riley), complainants, v. Duke Power Company (Duke), defendant, alleging that Duke had included bill inserts with its September 1975 and May 1976 electric bills purporting to set forth contentions or facts about nuclear power, which bill enclosures the complainants object to for reasons set forth in the Complaint.

The filing of the Complaint was accompanied by the filing of a "Memorandum of Points and Authorities in Support of Complaint."

On June 1, 1976, the Commission caused the Complaint to be served on the defendant in accordance with N.C.U.C. Rule R1-9.

On June 30, 1976, the complainants filed an Amended Complaint which was served on the defendant by Order of the Commission entered July 7, 1976. On July 22, 1976, Duke filed a Motion to Dismiss (1) for lack of jurisdiction over the subject matter and (2) for failure to state a claim upon which relief can be granted and on the same day filed an Answer to the original Complaint and a Brief in Support of Defendant's Answer and Motion to Dismiss.

On July 28, 1976, the Commission granted complainants leave to file Reply to the Answer, and on September 1, 1976, the complainants filed their pleading entitled "Brief in Support of Complainants' Opposition to Defendant's Motion to Dismiss and in Reply to Defendant's Answer to Complaint and Supporting Brief."

By Order duly entered on July 28, 1976, the Commission set the Motion to Dismiss for hearing on September 15, 1976. At the call of the hearing on the Motion to Dismiss on September 15, 1976, all parties of record entered their appearances through counsel of record, as shown above, and all parties were heard on Duke's Motion to Dismiss and the Complainants' Opposition to said Motion to Dismiss.

The Commission has considered the pleadings, the oral arguments thereon, the contentions of the parties at the hearing on September 15, 1976, and the Briefs of both complainants and defendant duly filed in connection with said hearing as above set forth, including the statements or admissions that there is no substantial dispute over the fact that the bill inserts were published by Duke as complained of in the Complaint. Based upon the facts alleged in the Complaint as set forth below, the Commission, taking judicial notice of its public records and the public laws, as indicated, makes the following

## FINDINGS OF FACT

1. That North Carolina Public Interest Research Group, Inc. (PIRG), is a nonprofit corporation for research and advocacy with student members from North Carolina colleges and universities and complainant Jesse L. Riley (Riley) is a resident of North Carolina and a customer of Duke Power Company (Duke).

2. That the defendant Duke is an investor-owned public utility with legal authority to provide electric service in an area of approximately 20,000 square miles through the Piedmont sections of North and South Carolina, with over 800,000 retail customers in North Carolina.

3. That during the months of September 1975 and May 1976 Duke enclosed in the envelope with its bills for electric service to its customers a bill insert, reproduced in two pages as Exhibit A and one page as Exhibit B of the Complaint, setting forth certain statements relating to nuclear power, which statements speak for themselves as hereinafter described.

4. That Duke has assigned the expenses of printing the bill insert attached as Exhibit A to its Account No. 930.66 "Institutional Advertising," but such assignment has not been approved by the Commission, and such assignment has no binding effect in any rate case in which Duke might seek to charge such expense above-the-line as an operating expense.

5. That the present electric rates of Duke were fixed by the Commission in its Order issued on October 3, 1975, in Docket No. E-7, Sub 173, based upon a test period ending December 31, 1974, and the expenses of the September 1975 and May 1976 Appendices A and B were not at issue or included in the rate base expenses of the present rates of Duke charged to its customers and to the complainant Riley.

6. That the Commission has previously advised the complainant Riley, as recited in paragraph 11 of the Complaint, that it would rule as to whether the expenses incurred for said bill inserts complained of would be charged to above-the-line institutional advertising or below-the-line as a stockholders' expense on a case-by-case basis in any general rate case where said expenses were submitted as an operating expense of the company for rate purposes.

7. That the customers of Duke are not being charged any rate or rate increase to print and distribute the bill inserts attached to the Complaint as Exhibits A and B, and, if the bill inserts were not printed, the saving in the expense thereof would have accrued to the stockholders of Duke under the ratemaking provisions of the North Carolina General Statutes which provide that rates shall be fixed on a formula as provided in G.S. 62-133, based upon estimated future revenues and estimated future expenses, but fixing rates certain [with exceptions only for fuel charges under G.S. 62-134(e)], and that said rates shall be charged until changed under appropriate proceedings by the Commission, and that until so changed all collections under said rates shall belong to the investor-owned public utility.

8. That if and when Duke should seek to increase its rates to cover the expenses of said bill inserts attached to the Complaint as Exhibits A and B, public notice will be given and complainants will have opportunity to be heard in said proceeding and that until and when Duke should seek to increase its rates to cover said expenses the said expenses are being absorbed out of revenues belonging to the creditors and stockholders of Duke.

## CONCLUSIONS

Based upon the above Findings of Fact from the uncontested allegations of the Complaint and from judicial notice of the Commission's prior decision and record and assuming, as we must for purpose of this motion, all other contentions of facts as alleged in the Complaint as amended to be true, the Commission finds and concludes that the Complaint fails to state a claim upon which the relief prayed for in the Complaint can be granted, for the reasons that the legal conclusion complained of in the allegation that Duke has charged the advertising expense of the bill inserts to the complainants has not occurred and there is no justifiable controversy presently existing, and for other reasons stated below the Complaint is premature, and the Motion to Dismiss

should be allowed on the basis of Rule 12(b)(6) of the Rules of Civil Procedure of North Carolina.

Inasmuch as the Commission thus finds and concludes that the Complaint fails to state a claim upon which relief can be granted, it is not necessary to pass upon paragraph 1 of the Motion to Dismiss for lack of jurisdiction over the subject matter, but, in the interest of being helpful to future procedural questions relating to this or similar issues, the Commission does conclude that it has jurisdiction over advertising expenses of public utilities under G.S. 62-133 through its authority to determine if the expenses of utilities are reasonable expenses for the purpose of fixing rates and that it will pass upon the reasonableness of advertising expenses and will determine whether the expense shall be an operating expense for ratemaking purposes or whether it should be charged "below-the-line" to the company's stockholders, in any rate case in which a utility seeks to claim such expenses as utility operating expenses to be charged to its ratepayers. It is not necessary for the purpose of this Order to determine if the Commission has jurisdiction to decide the additional question raised in Duke's Motion to Dismiss as to whether a utility company can be prohibited from publishing specific statements over an assertion by the utility of its right of free speech under the United States Constitution and the Constitution of North Carolina.

The Commission further concludes that the decision of Duke to include the inserts attached to the Complaint with its bills to its customers does not involve the fixing of rates so as to be a violation of G.S. 62-140 prohibiting unreasonable discrimination or preference as to rates or service among the customers of a public utility. The expense of said bill inserts has come out of monies otherwise belonging to Duke stockholders. G.S. 62-140 requires, in effect, that Duke may not charge one customer a higher rate or a lower rate than it charges another customer similarly situated, nor may Duke give any unreasonable preference or otherwise discriminate in its rates or its service of electricity between various customers.

IT IS, THEREFORE, ORDERED that the Motion of Duke Power Company to dismiss the Complaint for failure to state a claim upon which relief can be granted is hereby allowed, and the Complaint is dismissed for the reasons above set forth, and that the prayer of the complainants that the defendant Duke pay the costs and attorneys' fees incurred by the complainants PIRG and Riley is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.

This 29th day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 264

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application by Carolina Power & Light<br>Company for Authority to Adjust and<br>Increase Electric Rates and Charges | ) | ORDER<br>SETTING<br>RATES |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on August 13, 1975; December 2-5, 1975; December 9-12, 1975; January 6-9, 1976; January 13-14, 1976; January 21, 1976; and February 11, 1976;

City Hall Auditorium, Lisbon Street, Clinton, North Carolina, on Thursday, January 15, 1976;

Ninth Floor Courtroom, Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on Tuesday, January 20, 1976

BEFORE: Commissioner George T. Clark, Jr., Presiding; Commissioners W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

R. C. Howison, Jr., Joyner & Howison, Attorneys at Law, Wachovia Bank Building, Raleigh, North Carolina 27602; William E. Graham, Jr., Attorney at Law, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

For the Intervenors:

Thomas R. Eller, Jr., Hovis, Hunter & Eller, Attorneys at Law, 801 American Building, Charlotte, North Carolina 28286, For: North Carolina Textile Manufacturers Association, Inc.; David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, P. O. Box 527, Raleigh, North Carolina 27602, For: North

Carolina Oil Jobbers Association, and Edward Godwin, Jr., J. Stuart Gruggel, Jr., Office of the General Counsel, Department of the Navy - Atlantic Division, Naval Facilities Engineering Command, Norfolk, Virginia 23511, For: Executive Agencies of the United States of America; Bonnie Davis, Wake County Legal Aid Society, 600 Capital Club Building, Raleigh, North Carolina 27602, For: Johnnie Mae Tucker; I. Beverly Lake, Jr., Deputy Attorney General, Jesse C. Brake, Assistant Attorney General, Robert P. Gruber, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 29, Raleigh, North Carolina 27602, For: Using and Consuming Public

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, John R. Holm, Assistant Commission Attorney, Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On July 16, 1975, Carolina Power & Light Company (hereinafter called the Applicant, the Company or CP&L) filed an application with the Commission for authority to adjust and increase its electric rates and charges for its retail customers in North Carolina. This increase in retail rates and charges was designed to produce $81,779,502 of additional annual revenue from the Company's North Carolina retail operations when applied to a test year consisting of the twelve months ended December 31, 1974, or approximately a 22% increase in total charges, including total fuel charges. The Company requested that such increased rates be allowed to take effect as of August 15, 1975.

The application alleged and contended that the $81,779,502 of additional annual revenues was necessary in order to improve the Company's earnings, to resume essential maintenance programs, and to provide a sufficient rate of return on its investment to support its construction program, which was needed to provide adequate service to its customers in North Carolina. In the event that the Commission saw fit to suspend its proposed general rate increase, CP&L included in its application a request for authority to place into effect an interim rate increase to become effective August 15, 1975, subject to refund, pending final disposition of the requested 22% general rate increase. The proposed interim would be implemented by a 16.26% across-the-board increase on base rate charges, or approximately a 12% increase in total charges, including fuel charges.

The Commission, being of the opinion that the increases in rates and charges proposed by CP&L herein were matters affecting the public interest, by Order issued on July 21, 1975, declared the matter to be a general rate case pursuant to G.S. 62-133, suspended the proposed rate increase for a period of up to 270 days pursuant to G.S. 62-134, set the matter for hearing before the Commission beginning on Tuesday, December 2, 1975, with the burden of proof being placed on CP&L to show that the proposed increase in rates and charges is just and reasonable as required by G.S. 62-75, required CP&L to give notice of such hearing by newspaper publication and by appropriate bill insert, required CP&L to file the data contained in N.C.U.C. Form E-1, Rate Case Information Report - Electric Companies, on or before September 2, 1975, and required protests or interventions to be filed in accordance with Rules R1-6, R1-17, and R1-19 of the Commission's Rules of Procedure.

On July 23, 1975, the Commission issued an Order which set CP&L's proposed interim increase for investigation and hearing on August 13 and 14, 1975, on affidavits and oral argument. CP&L was required to give notice of the interim hearing by publication in newspapers giving general coverage of its entire service area. Protestants and Intervenors were given until August 3, 1975, within which to file their protests or motions for leave to intervene in the interim proceeding. Pending the outcome of the hearing and determination on the Company's request for interim relief, the interim rates proposed by CP&L were suspended.

On August 12, 1975, a petition for leave to intervene in the general and interim rate cases was filed by counsel for the North Carolina Textile Manufacturers Association, Inc. On August 13, 1975, the date of the hearing, a petition for leave to intervene in both cases was filed by attorneys for the Consumers Center of North Carolina. At the beginning of the interim hearing, notice of intervention was given by the North Carolina Attorney General's Office and an oral motion for leave to intervene was made by counsel for the Department of the Navy. All of the foregoing motions, notices and petitions for leave to intervene were allowed by the presiding Commissioner at the interim hearing. By Order issued on August 20, 1975, the Commission authorized CP&L to put into effect, subject to refund, the Company's Interim Retail Service Rider No. 34, which rate schedule would increase base rate schedules by approximately 16.20% and would effect an increase of approximately 12% across-the-board on total customer charges. The Commission further ordered Carolina Power & Light Company to immediately begin to carry out its deferred maintenance program and ordered that any revenues collected pursuant to its Order Allowing Interim Rate Increase would be subject to refund following the hearing and determination of the general rate case.

On August 26, 1975, petitions for leave to intervene in this matter were filed on behalf of the North Carolina Oil Jobbers Association and on behalf of Edward Godwin, Jr., an

individual customer of Carolina Power & Light and a member of the Oil Jobbers Association. By Order issued on August 28, 1975, the Commission, being of the opinion that good cause for such leave had been shown, allowed the petitions for leave to intervene on behalf of these parties.

On September 5, 1975, the Commission received a petition for leave to intervene filed by J. Stuart Gruggel, Assistant Counsel, Department of the Navy, Norfolk, Virginia, on behalf of the customer interests of the Executive Agencies of the United States of America. The Commission allowed such petition for leave to intervene by Order issued on September 9, 1975.

General Statute 62-133(c) was amended during the course of the 1975 Session of the North Carolina General Assembly, so that the second sentence of such statute now reads as follows:

> "The test period shall consist of 12 months' historical operating experience prior to the date the rates are proposed to become effective but the Commission shall consider such relevant, material and competent evidence as may be offered by any party to the proceeding tending to show actual changes in cost, revenues or the value of the public utility's property used and useful in providing the service rendered to the public within this State which is based upon circumstances and events occurring up to the time the hearing is closed." (Emphasis added)

By Order dated July 21, 1975, the Commission required that detailed estimates of data which is "based upon circumstances and events occurring up to the time the hearing is closed" be presented by CP&L in the context of a twelve-month period of time, ending the last day of the month nearest 120 days from and after the date of the application. By letter dated September 16, 1975, CP&L requested an extension of time in which to file such detailed estimates, asking that it be allowed to state the results thereof in the context of a twelve-month period of time ending the last day of the month nearest 150 days from and after the date of the application. The Applicant stated that this would allow it to present twelve-month figures based upon the entire Calendar Year 1975, and would present to the Commission data up to and including the month of December when the Company was scheduled to present its direct case. By Order issued September 23, 1975, the Commission approved the Company's request.

In order to provide an opportunity for individual customers of Carolina Power & Light Company in eastern and western North Carolina to testify closer to their homes with respect to CP&L's application for a general rate increase, the Commission, by Order issued on October 20, 1975, scheduled public hearings in Clinton, North Carolina, on Thursday, January 15, 1976, and in Asheville, North Carolina, on Tuesday, January 20, 1976.

By motion filed with the Commission on November 17, 1975, the Attorney General of North Carolina, on behalf of the using and consuming public, requested the Commission to expand its schedule of hearings theretofore announced and published in this docket so as to include evening hearing sessions from 6:00 p.m. to 8:00 p.m. in Clinton, Asheville, and Raleigh. By Order issued on November 19, 1975, the Attorney General's motion was denied by the Commission.

On November 19, 1975, the Wake County Legal Aid Society, attorney of record at the interim hearing for the Intervenor, the Consumers Center of North Carolina, filed a motion with the Commission seeking leave to withdraw as legal counsel for the Consumers Center. Such motion was filed with the concurrence of the Consumers Center of North Carolina. Also, on November 19, 1975, a petition for leave to intervene herein was filed by the Wake County Legal Aid Society on behalf of Johnnie Mae Tucker, a resident of Raleigh, North Carolina, and an individual customer of Carolina Power & Light Company. By Orders issued on November 21, 1975, the Commission allowed the Wake County Legal Aid Society to withdraw as counsel of record for the Consumers Center of North Carolina and allowed the intervention of the Wake County Legal Aid Society on behalf of Johnnie Mae Tucker.

The matter came on for hearing as previously ordered by the Commission on December 2, 1975, at 10:00 a.m., for the purpose of presenting the Applicant's evidence. The Applicant offered the testimony of the following witnesses:

(1) Mr. Shearon Harris, President and Chief Executive Officer of CP&L, testified concerning general corporate affairs, the Company's proposed construction program, its present financial condition and its present need for increased rates and earnings;

(2) Mr. Edward G. Lilly, Jr., Senior Vice President - Finance of CP&L, testified concerning the Company's present financial condition, its future plans for financing its construction program in light of present day money markets, its need to increase its amount of times interest charges earned and its concern over the large proportion of its earnings represented by the allowance for funds used during construction;

(3) Mr. Paul S. Bradshaw, Assistant Treasurer - Budget and Statistics Section, Treasury and Accounting Department of CP&L, testified and presented exhibits concerning the results of test year operations reflected on the Company's books;

(4) Mr. Eugene W. Meyer, Vice President and Director of Kidder, Peabody and Company, Incorporated, testified with regard to presently prevailing capital market conditions and the financial results which CP&L needs to achieve and maintain in order to attract capital in such markets;

(5) Mr. John J. Reilly, Consulting Engineer with Ebasco Services, Inc., testified with regard to his appraisal of the Company's electric plant in service at December 31, 1974 (the end of the test year), his study of the trended original cost of the Company's plant as of the end of the test period, and the most recent of the periodic depreciation studies, which his company has prepared for CP&L every five years since 1950;

(6) Dr. John K. Langum, Economic Consultant, Chicago, Illinois, testified regarding the cost of capital and fair rate of return to Carolina Power & Light Company;

(7) Mr. James M. Davis, Jr., Assistant Director - Rates and Regulation of CP&L, testified with regard to jurisdictional allocations and separations, the Company's proposed rate structure, including the Company's proposed method for recovery of current fuel costs, the actual test year operating results for the Company with appropriate end-of-period adjustments, and the monetary effect that the proposed rates would have had on the Company's operations as adjusted.

During the course of presentation of the Company's evidence, one full afternoon of hearings in Raleigh, from 2:00 p.m. to 7:00 p.m., was reserved for the taking of testimony offered by members of the public. The following persons appeared and offered testimony to the Commission, which generally questioned the need for and the justness and reasonableness of the proposed rate increase requested by CP&L: Mrs. Lillian Woo, Mr. Joseph Reinzkens, Mrs. Felicia McDougal, Mrs. Clara Hilliard, Mrs. Fanny White, Mr. Robert J. Harris, Mr. W. H. Weatherman, Mr. John Locklear, and Mrs. Georganna Trudill.

On December 17, 1975, the Executive Agencies of the United States filed a motion requesting the Commission to order CP&L to provide the Agencies with the answers to two interrogatories concerning growth in peak demand and total annual kilowatt-hour sales from 1967-1974 in all of CP&L's North Carolina retail rate schedule classifications and also concerning percentage increases in such schedules due to rate increases granted by the Commission for the years 1967-1974. The Agencies further requested the Commission to allow the filing of supplemental testimony, if appropriate, based upon the information furnished in response to the interrogatories. By Order issued on December 31, 1975, the Commission required CP&L to provide the information requested by the Executive Agencies in the form available and allowed the Agencies to file supplemental testimony, if appropriate, based upon the new information.

Following a recess for Christmas and New Year's, the hearings were reconvened on Tuesday, January 6, 1976, for the purpose of receiving testimony and exhibits from the Intervenors and the Commission Staff. Most of these witnesses offered specific, usually expert testimony

concerning particular aspects of the proposed increase requested or the proposed rate design offered by CP&L.

Mr. Jerry T. Roberts, Secretary-Treasurer of the North Carolina Textile Manufacturers Association, Inc., commented with regard to CP&L's proposed demand ratchet as it applied to the G-3, Large General Service Rate Schedule. He criticized the demand ratchet language for being verbose, complicated, and hard to understand. He recommended that the proposed ratchet be held in abeyance pending completion of further study in the Peak-Load Pricing docket presently before the Commission. He criticized the proposed rate increase for the G-3 Schedule as being in excess of the system average increase, and therefore, not cost justified. He finally stated that, looking at CP&L's annual report as distinguished from projections and speculations, it was apparent to him that CP&L is presently earning sufficient levels of return to transact its business.

Mr. Gerald T. Matthews, Consulting Engineer, employed by the North Carolina Oil Jobbers, testified concerning a comparison study which he had made of the annual energy cost for a representative residential customer of the Company under schedules R-2 (All Electric) and R-3 (Water Heater Only) for both the present and proposed rates. Mr. Matthews' study assumed that the R-2 customer had an electric heat pump and that the R-3 customer used oil heat. He concluded that a heat pump is not more efficient in energy utilization than a space heating unit using heating oil as an energy source. Despite this, his study revealed that under both the present and proposed rates, a customer in the R-2 rate schedule would have a significantly lower total annual energy bill than a customer having identical consumption patterns who used fuel oil for space heating and received his electricity on the R-3 rate schedule. Mr. Matthews ultimately recommended that the R-2 and R-3 rate schedules be combined into one single rate schedule.

Mr. Bruce M. Louiselle, a Vice President of David A. Kosh and Associates, Inc., a firm of consultants specializing in the area of public utility economics, testified as a witness for the Attorney General. Mr. Louiselle presented the results of a study which he had made attempting to estimate the effect on rates and rate increases which would be necessary to support the new capital required by CP&L's announced construction program.

Mr. Raymond V. Petniunas, a Rate Engineer with Naval Facilities Engineering Command, Norfolk, Virginia, testified on behalf of the Executive Agencies of the United States. The stated purpose of Mr. Petniunas' testimony was to "(1) analyze the relationship between the demand ratchet proposed by Carolina Power & Light Company for industrial and commercial customers and peak-load pricing, conservation of fuel, and load management; and (2) demonstrate the inequity of imposing an average increase of 32% upon the nine military installations presently served by Carolina Power &

Light Company." Mr. Petniunas discussed these purposes in the context of the present day debate concerning the value of the peak-load pricing. The witness concluded that CP&L's proposed demand ratchet failed to meet the objectives of a demand ratchet and proposed his own demand ratchet in lieu thereof. Mr. Petniunas finally concluded that the proposed rates, as applied to the nine military installations in North Carolina, were unjust, discriminatory and unreasonable.

The Commission Staff offered evidence from nine witnesses, whose testimony may be summarized as follows:

(1) Mr. Dennis J. Nightingale, Senior Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning the reasonableness of CP&L's current plants in service and construction program by applying a loss of load probability analysis to CP&L's load growth forecast;

(2) Mr. J. Reed Bumgarner, Jr., Distribution Engineer, Electric Section - Engineering Division of the Commission Staff, presented the results of his analysis of CP&L's jurisdictional allocation study and the results of his investigation of the Company's adjustment for probable future revenues and expenses applicable to electric plant in service at the end of the test year;

(3) Mr. Charles D. Land, Operations Engineer, Operations Analysis Section - Engineering Division of the Commission Staff, presented the Staff's position with regard to CP&L's requested changes in depreciation rates and also presented the Staff's review and analysis of the Company's trended cost study;

(4) Mr. Donald R. Hoover, Staff Accountant of the North Carolina Utilities Commission, presented his analysis of the Company's books and records for the test year ended December 31, 1974, resulting in an exhibit entitled "Study of Original Cost Net Investment, Revenues, Expenses, and Capitalization of Allowance for Funds Used During Construction";

(5) Mr. Andrew W. Williams, Chief Engineer, Electric Section - Engineering Division of the Commission Staff, testified in two different subject areas: (a) the appropriate level of fuel costs that should be included in the basic rate design and (b) a recommended format for utility filings for rate increases based solely on the cost of fuel pursuant to G.S. 62-134(e);

(6) Mr. Edwin A. Rosenberg, Economist, Operations Analysis Section - Engineering Division of the Commission Staff, offered testimony assessing the reasonableness of the application in this case from the standpoint of the rate of return which will result from the additional revenues requested by CP&L;

(7) Mr. William F. Irish, Economist, Operations Analysis Section - Engineering Division of the Commission Staff, offered testimony dealing with adjustments to net income for return in order to account for the effects of weather normalization;

(8) Mr. N. Edward Tucker, Utilities Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning his analysis of CP&L's 1974 retail operations cost allocations studies (cost of service studies) and his review of the relative level of rates proposed by CP&L for each rate schedule, other than residential, including the Company's proposed billing demand (ratchet) provision and the proposed changes in service regulations;

(9) Dr. Dennis W. Goins, Economist, Operations Analysis Section - Engineering Division of the Commission Staff, offered testimony analyzing the rate design of the residential rate schedules proposed by CP&L in this docket.

Two out-of-town hearings were conducted by the Commission for the purpose of receiving testimony from interested members of the using and consuming public with regard to CP&L's proposed rate increase in this case. The first such hearing was held in Clinton, North Carolina, on Thursday, January 15, 1976. No public witnesses appeared and, as a result thereof, no substantive testimony was received into the record during the Clinton hearing. The second such hearing was held in Asheville, North Carolina, on Tuesday, January 20, 1976. Nineteen (19) witnesses appeared at the Asheville hearing, one of whom spoke generally in favor of the proposed rate increase, the remainder of whom opposed the rate increase on various grounds. These witnesses were the following: Lewis Turbyfill, Edgar Lingholm, Ted Glenn, L. B. Womack, Herman Stevens, Dan Kathy, W. C. Breazeale, John Lackey, Mabel Taylor, Mrs. L. H. Robinson, J. T. Hocking, Paul Warwick, David Jackson, Zack Winston, Annie Mae Boyd, K. J. Durant, Phillip Wainwright, Helen T. Reid, and Ron Montgomery.

On Wednesday, January 21, 1976, the Commission reconvened the hearings in Raleigh at the Commission Hearing Room for the purpose of receiving additional direct testimony (which had been requested by the Intervenors) and entertaining further cross-examination of Company Witnesses Edward G. Lilly, Jr., and James M. Davis, Jr. With the completion of this testimony and cross-examination, the official record of evidence in this proceeding was closed. The hearing was then recessed pending the completion and mailing of the transcript of the proceeding. The presiding Commissioner, Mr. Clark, stated that he would reschedule oral argument herein, which had been requested by all parties in lieu of briefs, at a day certain in the future not less than ten (10) days following the mailing of the transcript.

By Order issued on February 3, 1976, oral arguments in this docket were scheduled for 10:00 a.m. on Wednesday, February 11, 1976, in the Commission Hearing Room. At the oral arguments, all parties were present and represented by counsel. Arguments were presented on behalf of the Company, the using and consuming public, Mrs. Johnnie Mae Tucker, the Executive Agencies of the United States, the North Carolina Textile Manufacturers Association, Inc., and the North Carolina Oil Jobbers Association and Edward Godwin, Jr. Following the completion of such arguments, the hearings in this matter were adjourned.

Based on the foregoing, the verified application, the testimony and exhibits received into evidence at the hearing and the Commission's entire record with regard to this proceeding, the Commission now makes the following:

FINDINGS OF FACT

1. That Carolina Power & Light Company is a public utility corporation, organized and existing under the laws of the State of North Carolina, and is subject to the jurisdiction of this Commission. CP&L is lawfully before this Commission based upon its application for a general increase in its North Carolina retail rates and charges, pursuant to the jurisdiction and authority conferred upon the Commission by the Public Utilities Act.

2. That CP&L is engaged in the business of developing, generating, transmitting, distributing and selling electric power and energy to the general public within a broad area of eastern and western North Carolina, and CP&L has its principal office and place of business in Raleigh, North Carolina.

3. That the test period for the purposes of this proceeding is the twelve-month period ended December 31, 1974. CP&L is seeking an increase in its rates and charges to North Carolina retail customers of $81,779,502 based upon operations in said test year.

4. That the overall quality of electric service provided by Carolina Power & Light Company to its North Carolina retail customers is good.

5. That the reasonable original cost of CP&L's property used and useful in providing intrastate electric service to its retail customers in North Carolina is $1,237,269,000, the reasonable accumulated provision for depreciation is $195,921,000 and the reasonable original cost less depreciation is $1,041,348,000.

6. That the reasonable replacement cost of CP&L's property used and useful in providing retail electric service in North Carolina is $1,531,525,000.

7. That the fair value of CP&L's utility plant used and useful in providing electric service to its retail customers in North Carolina should be derived from giving two-thirds (2/3) weighting to the original cost less depreciation of CP&L's utility plant in service and one-third (1/3) weighting to the trended original cost less depreciation of CP&L's utility plant. By this method, using the depreciated original cost of $1,041,348,000 and the reasonable replacement cost of $1,531,525,000, this Commission finds that the fair value of said utility plant devoted to intrastate retail electric service in North Carolina is $1,204,740,000. This fair value includes a reasonable fair value increment of $163,392,000.

8. That the reasonable allowance for working capital is $62,644,000.

9. That the fair value of CP&L's plant in service used and useful in providing electric service to its retail customers within the State of North Carolina of $1,204,740,000, plus the reasonable allowance for working capital of $62,644,000, yields a reasonable fair value of CP&L's property in service to North Carolina retail customers of $1,267,384,000.

10. That CP&L's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $337,965,000 under the present rates and, after giving effect to the Company's proposed rates, are $419,745,000.

11. That the level of test year operating expenses after accounting and pro forma adjustments including taxes and interest on customer deposits is $279,502,000, which includes an amount of $41,271,000 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end levels.

12. That cost-free funds, arising from the Job Development Investment Tax Credit, implemented by the Revenue Act of 1971, should receive the full equity return.

13. That the fair rate of return that CP&L should have the opportunity to earn on the fair value of its North Carolina investment for retail operations is 7.58%, which requires the full additional annual revenue requested from North Carolina retail customers of $81,780,000 based upon the historical test year (Calendar Year 1974) level of operations as adjusted for known changes subsequent thereto. This rate of return on the fair value of CP&L's property yields a fair rate of return on the fair value equity of Carolina Power & Light Company of approximately 7.71%.

14. That the rates proposed by CP&L for each rate classification will produce revenues which greatly reduce the existing variations in rates of return between rate classes.

15. That the rate design proposed by CP&L is not unreasonably discriminatory as between classes of service. All rate schedules and tariff provisions as filed by CP&L, with the exception of residential service, should be approved as just and reasonable, and as necessary to enable the Company to meet its revenue requirements.

16. That the residential rate schedules of CP&L require pricing changes to reflect a more equitable and efficient rate design. The residential rate schedules attached to this Order as Exhibit A, and incorporated herein, are a means to this end. Under the approved residential rate schedules most of the customer cost component of serving residential users of electricity will be recovered in separate customer charges, which will not vary with kilowatt-hours of use. Under CP&L's present and proposed residential rates, the monthly minimum bill does not recover the customer cost component.

17. That the basic rates proposed by CP&L in this docket are designed to include a roll-in of fossil fuel costs which are based upon the June, 1975, fuel cost level. Such level reflects a total fuel component of 1.010 cents per KWH in each of the proposed rates and thus does not reflect more current, lower fuel costs. The Commission finds that the basic rates proposed should be adjusted by reducing each rate block by 0.150 cents per KWH and thus incorporate into the basic rates a total fuel cost component of 0.860 cents per KWH.

18. That recently-enacted G. S. 62-134(e) eliminates the automatic fossil fuel cost adjustment clause which CP&L had been using prior to its application in this docket. The Commission finds that future rate case filings by CP&L, which are based solely upon the increased cost of fuel pursuant to G.S. 62-134(e), should use the method of calculating such costs which is contained in Exhibit B attached hereto.

19. That the revised depreciation rates proposed by CP&L, which are attached hereto as Exhibit C, accurately reflect average life expectancies of various classes of property and should be approved for use by the Company.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 AND 2

The evidence for these Findings comes from the verified application, the testimony of Company Witness Harris and North Carolina G.S. 62-3(23)a.1. and 62-133. These findings are essentially informational, procedural and jurisdictional in nature and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this Finding is contained in the verified application, the Commission's Order Suspending Proposed Rates of July 21, 1975, and the testimony and exhibits of

Company Witnesses Bradshaw and Davis and Staff Witness Hoover.

The Company offered and the Staff evaluated testimony and exhibits concerning actual changes in costs, revenues and the value of the Company's utility property, which changes were based on circumstances and events that took place between the end of the historic test period and the close of the hearings. This testimony involved matters such as additions to plant investment, decreases in market price of fossil fuel, improvements in times interest coverage ratios, changes in capital structure and the like.

The Commission concludes that the purpose of the Legislature in enacting revised G.S. 62-133(c) was to reduce "regulatory lag" by allowing the Commission, where reasonable and appropriate, to take notice of known changes which have, in fact, occurred after the end of the test period but before the hearings have concluded, and whose effects can be demonstrated to a reasonable degree of certainty. If the Commission were unable to take notice of such changes, then its Orders, in rate cases such as this one, would be obsolete before they are issued.

The Commission concludes that for purposes of this case, it will adopt and apply the test year ending December 31, 1974, as normalized to end-of-period levels and as adjusted for known changes which occurred up through the conclusion of hearings in this docket. Such changes and adjustments are discussed in subsequent specific sections of this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this Finding is to be found in the testimony of Company Witnesses Harris, Reilly and Davis and Staff Witnesses Nightingale and Land. None of the public witness testimony was concerned with the adequacy, dependability of reliability of the commodity or service being provided by CP&L; instead, such testimony was primarily devoted to complaints about the price being charged by the Company for such service or the methods employed by the Company to collect its charges. In the absence of substantial evidence to the contrary, the Company is entitled to a presumption that its service is adequate and efficient and the Commission concludes that such service is good.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Commission will now analyze the testimony and exhibits presented by Company Witness Davis and Staff Witness Hoover concerning the original cost net investment in electric plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

"000's Omitted"

| Item (a) | Company Witness Davis (b) | Staff Witness Hoover (c) |
|---|---|---|
| Electric plant in service | $1,191,303 | $1,221,391 |
| Nuclear fuel - net | 16,640 | 10,877 |
| Total | 1,207,943 | 1,232,268 |
| Less: Accumulated depreciation | 194,869 | 194,188 |
| Net Electric plant in service | $1,013,074 | $1,038,080 |

As shown in the above chart, the witnesses agree with regard to the components which should be used to calculate the net investment in electric plant in service, but they disagree with regard to the amount. The first area of disagreement is the amount properly includable as investment in electric plant in service. This difference arises from the different levels of cost used by each witness to reflect the addition of the Brunswick No. 2 nuclear generating unit to utility plant in service, and Witness Hoover's adjustment in the amount of $35,089,000 to reflect additions to utility plant in service other than Brunswick No. 2. With respect to the Brunswick adjustment, the level of cost used by Witness Davis in the amount of $251,116,000 represents the actual cost of Brunswick No. 2 when placed in service on November 3, 1975. The level of cost used by Witness Hoover in the amount of $246,115,000 represents the actual cost of Brunswick No. 2 at September 30, 1975, the point in time through which Witness Hoover adjusted the test year level of operations for known changes subsequent thereto.

As discussed above in Evidence and Conclusions for Finding of Fact No. 3, it is the Commission's duty to consider relevant, material and competent evidence showing changes in the value of the utility's property used and useful in providing the service rendered to the public within this State which is based upon circumstances and events occurring up to the time the hearing is closed. In arriving at the appropriate level of investment in electric plant in service of $1,226,392,000, the Commission has taken the original cost of electric plant in service at December 31, 1974, of $940,187,000 and then added the actual cost of Brunswick No. 2 when placed in service on November 3, 1975, of $251,116,000 and additions to electric plant in service other than Brunswick No. 2 of $35,089,000, which other additions were included as of September 30, 1975.

The witnesses agree that nuclear fuel (net) should be included as an addition in calculating net investment in electric plant in service. The difference in the levels of investment in nuclear fuel proposed by each witness results from Witness Hoover's adjustment to give effect to net

additions to electric plant in service other than Brunswick No. 2 subsequent to December 31, 1974. As previously stated, it is the Commission's statutory duty to consider changes in the value of the utility's property occurring up to the time the hearing is closed. Consistent with other findings herein, the Commission has used the September 30, 1975, level of investment in nuclear fuel of $10,877,000 in arriving at net investment in electric plant in service.

The witnesses agree that the depreciation reserve should be included as a deduction in calculating the net investment in electric plant in service. However, the witnesses do not agree on the proper amount to be deducted. Company Witness Davis testified that the accumulated provision for depreciation was $194,869,000. Staff Witness Hoover testified that the accumulated provision for depreciation was $194,188,000 which is $681,000 less than that proposed by Witness Davis. The difference results from additional adjustments to depreciation expense proposed by Staff Witnesses Hoover and Land and the different levels of cost used by Witnesses Davis and Hoover to reflect the addition of Brunswick No. 2 to utility plant in service.

The additional adjustment proposed by Witness Hoover of $1,052,000 was to include in test year operations depreciation expense applicable to additions to plant in service other than Brunswick No. 2, subsequent to December 31, 1974. The additional adjustment proposed by Witness Land of $1,514,000 and reflected in Witness Hoover's Exhibit as a decrease in depreciation expense was to adjust the depreciation rate applicable to nuclear production plant to reflect a service life of 28 years.

In arriving at the proper level of operating expenses we have added an amount of $1,052,000 to reflect depreciation expense applicable to plant additions other than Brunswick No. 2 and we have added an amount of $10,569,000 to reflect depreciation expense applicable to Brunswick No. 2. Calculation of depreciation expense applicable to Brunswick No. 2 was based on its actual cost when placed in service on November 3, 1975, and the depreciation rate was based on a service life of 25 years. The difference arising from the different levels of cost used by Witness Davis and Witness Hoover is $219,000 ($10,569,000 - $10,350,000). Consistent with adjustments to depreciation expense including those described above we have used accumulated depreciation of $195,921,000 ($194,869,000 + 1,052,000) in developing the net investment in electric plant in service.

The Commission concludes that the following calculation of net electric plant in service is appropriate for use herein:

| | |
|---|---|
| Original Cost 12/31/74 | $ 940,187,000 |
| Brunswick No. 2 11/3/75 | 251,116,000 |
| Other plant additions 9/30/75 | 35,089,000 |
| Nuclear fuel - net | 10,877,000 |
| Total | $1,237,269,000 |
| Less: | |
| Accumulated depreciation (including Brunswick No. 2) | 194,869,000 |
| Depreciation on additional plant (other than Brunswick) | 1,052,000 |
| Net electric plant in service | $1,041,348,000 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company Witness Reilly testified that the Company's trended original cost was $2,595,149,246 as of January 1, 1975. He arrived at that figure by first determining, by individual plant account, the vintage of the surviving original cost dollars and then applying trend factors which relate the material and labor prices at the time of placing the plant in service to the prices in effect on January 1, 1975. Mr. Reilly's trended cost represents the cost that would have been incurred on January 1, 1975, to replace CP&L's plant in like kind and manner. As a check of his trended cost, Mr. Reilly performed a substitute plant analysis for production plant. This analysis showed that, even after reductions to take into account fuel, labor and other efficiencies, the cost of a modern substitute plant was greater than the depreciated trended cost of the existing production plant. While no such substitute plant analysis was made for transmission, distribution or other plant, Mr. Reilly testified that nearly all other plant would be replaced in like kind and that his trended cost was an accurate estimate of replacement cost.

Commission Staff Witness Land testified that a trended cost study should use the unit summation method to estimate accrued depreciation and not the average life method. Mr. Land stated, nevertheless, that Mr. Reilly's results are no more than one percent overstated as a result of his use of the average life method.

Previously in this order, the Commission has concluded that the original cost of CP&L's property, less depreciation, is $1,041,348,000 (including $47,180,788 representing additions to plant and $1,573,185 representing additional depreciation accruals to update the test period from January 1, 1975, to September 30, 1975), and that such original cost as updated should be included in the Company's original cost for rate-making purposes. Accordingly, the Commission concludes that it is proper to include these

amounts in the Company's trended cost. Since these amounts represent recent vintage dollars, any effect of trending the dollars would be de minimis.

The Commission concludes that the Company's replacement cost less depreciation allocated to North Carolina retail operations is $1,531,525,000. This figure represents the sum of $1,475,040,198 for plant in service as of January 1, 1975, plus $47,180,788 representing plant additions between January 1, 1975, and September 30, 1975, not included originally by Witness Davis, less $1,573,185 representing additional depreciation accruals, plus $10,877,000 for nuclear fuel.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The Commission concludes that, considering the original cost and the replacement cost, each less its proper depreciation, the reasonable weighting of original cost less depreciation is two-thirds (2/3) and the reasonable weighting of the replacement cost less depreciation is one-third (1/3) in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. This weighting results in a fair value of plant in service of $1,204,740,000 which includes original cost of plant in service less depreciation of $1,041,348,000 and a reasonable fair value equity increment of $163,392,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission will now analyze the testimony and exhibits of Company Witness Davis and Staff Witness Hoover concerning the amount each witness considers properly includable in the original cost net investment as an allowance for working capital.

Each witness used the formula method in developing the allowance for working capital. However, the witnesses did not use the same period of time, which in all material respects accounts for the difference in the amount of working capital proposed by each witness. Mr. Davis determined his working capital allowance, as stated in the Company's application, based on the twelve months ended December 31, 1974. Upon submitting his additional testimony, filed November 26, 1975, he changed his working capital allowance to reflect the elimination of fuel deferral accounting as provided in the Commission Order of April, 1975 (Docket No. E-2, Sub 260), and to reflect the effect of adjustments to operating and maintenance expense. With these changes applied to the allowance for working capital at December 31, 1974, Mr. Davis stated his allowance for working capital at $90,809,000.

The second filing of additional testimony by Witness Davis stated allowance for working capital in the context of actual operating results for Calendar Year 1975. Mr. Hoover determined his allowance for working capital based on the 12

months ended December 31, 1974, adjusted for known changes through September 30, 1975.

The Commission, carefully considering the allowance for working capital proposed by Company Witness Davis and Staff Witness Hoover and taking due notice that the test period shall consist of 12 months' historical operating experience considered along with such relevant, material and competent evidence tending to show actual changes in costs, revenues or the value of the public utility's property used and useful in providing service which is based upon circumstances and events occurring up to the time the hearing is closed, concludes that the applicant's proper working capital allowance is $62,644,000. This allowance is based on the 12 months ended September 30, 1975, and includes the related effect of that portion of Witness Irish's weather adjustment adopted by the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Commission, based upon Findings of Fact Nos. 7 and 8, supra, and the Evidence and Conclusions therefor, concludes that the fair value of CP&L's property used and useful in rendering retail electric service to its customers in North Carolina, or rate base, at the end of the test year (as adjusted for known changes subsequent thereto) is $1,267,384,000, consisting of the fair value of plant in service of $1,204,740,000 plus the reasonable allowance for working capital of $62,644,000. It is the fair value of property (or rate base) thus determined to which the fair rate of return is ordinarily applied in computing the gross revenue requirement for Carolina Power & Light Company.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company Witness Davis and Staff Witness Hoover presented testimony and exhibits concerning the appropriate level of operating revenues to be included in test year operations. The following chart summarizes the amount which each witness contends is the proper level of operating revenues:

| Item | Company Witness Davis | Staff Witness Hoover |
|---|---|---|
| (a) | (b) | (c) |
| Net operating revenues | $336,934,000 | $334,410,000 |

The difference in the amount of operating revenues proposed by each witness arises from Witness Davis' adjustment to reflect the elimination of fuel deferral accounting and the operating revenue effect of Witness Irish's weather and growth adjustments.

Witness Davis' adjustment to reflect the elimination of fuel deferral accounting is consistent with the Commission's Order issued in April of 1975, Docket No. E-2, Sub 260. Witness Hoover's testimony and exhibits were revised during

the hearing to reflect the withdrawal of Witness Irish's growth adjustment.

Witness Irish's weather adjustment would increase test year operating revenues in the amount of $2,062,000 to account for the difference in sales resulting from test year weather being warmer in the winter and cooler in the summer than "normal" weather, in terms of degree days, for the last twenty (20) years. The Commission concludes that, in these circumstances, a weather normalization adjustment is entirely legitimate and proper and should be made.

The Company failed to offer a proposed adjustment for weather normalization. However, on cross-examination of Staff Witness Irish, the Company contended that the adjustment calculated by the Staff might not be correct due to the following considerations: (a) the lack of proper weighting of degree days by numbers of customers and sales in the four weather stations selected by the Staff; (b) the number of years which should have been used to calculate "normal" weather; (c) the appropriate rate blocks in which the hypothetical increased sales should have been priced; and (d) the appropriate cost to use for the generation of additional electricity necessary to make the hypothetical increased sales.

The Commission is of the opinion that the weather adjustment is one which is appropriate for the exercise of the Commission's judgment, similar to its determinations of rate base and rate of return. Having considered the methodology used by the Staff in calculating its proposed weather adjustment and the questions concerning such methods raised by the Company, the Commission concludes that net operating revenues for the test year should be increased in the amount of $1,031,000 to normalize weather conditions existing in the test year.

The Commission will, therefore, use $337,965,000 as the proper level of operating revenues under existing rates for purposes of setting rates in this proceeding, which sum consists of the $336,934,000 contained in Witness Davis' testimony and exhibits, plus that portion of Witness Irish's weather adjustment approved by the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company Witness Davis and Staff Witness Hoover offered testimony and exhibits presenting the level of operating revenue deductions which they believe should be used for the purpose of fixing the Applicant's rates in this proceeding.

The following chart sets forth the amounts presented by each witness (rounded to nearest thousand):

| Item (a) | Company Witness Davis (b) | Staff Witness Hoover (c) |
|---|---|---|
| Net operating and maintenance | $185,756,000 | $181,218,000 |
| Depreciation | 40,219,000 | 39,539,000 |
| Taxes other than income | 32,058,000 | 30,701,000 |
| Income taxes - State | 1,115,000 | 879,000 |
| Income taxes - Federal | 5,485,000 | 3,714,000 |
| Investment tax credit - net | (1,287,000) | (1,287,000) |
| Deferred income taxes - net | 9,757,000 | 18,296,000 |
| Interest on customer deposits | 97,000 | 97,000 |
| Total revenue deductions | $273,200,000 | $273,157,000 |

As shown in the above chart, the witnesses disagree as to the amount properly includable for operating and maintenance expense. The difference results from Witness Davis' revised adjustments to reflect probable future expenses for plant in service at December 31, 1974, to adjust for the elimination of fuel deferral accounting and to include the increase in operating and maintenance expense arising from Witness Irish's weather and growth adjustments.

It is the Commission's duty by statute to consider changes in the utility's costs occurring up to the time the hearing is closed. Accordingly, it is appropriate for the Commission to include Witness Davis' revised adjustments to reflect probable future expenses for plant in service.

As explained under Evidence and Conclusions for Finding of Fact No. 10, the Commission has adopted, in part, Witness Irish's weather adjustment. Consistent with Witness Davis' adjustment to operating revenues to reflect the effect of elimination of fuel deferral accounting, a corollary adjustment is required to increase fuel expense. Also, as noted above, Witness Hoover's testimony and exhibits were revised during the hearing to reflect the withdrawal of Witness Irish's growth adjustment. The Commission will, therefore, use $186,148,000 as the proper amount to be included as operating and maintenance expense in calculating total operating revenue deductions for purposes of setting rates in this proceeding.

The next area of disagreement is depreciation. The difference results from the additional adjustments proposed by Staff Witnesses Hoover and Land and the different levels of costs used by Witnesses Davis and Hoover to reflect the addition of Brunswick No. 2 to utility plant in service. As previously discussed we have adopted Witness Hoover's adjustment to include in test year operations depreciation expense applicable to additions to plant in service other than Brunswick No. 2. Also, we have previously adopted Witness Davis' adjustment to reflect in test year operations depreciation expense applicable to Brunswick No. 2 based on its actual cost when placed in service, using a depreciation

rate based on a 25-year service life. Having adopted Witness Davis' depreciation expense adjustment related to Brunswick No. 2 and Witness Hoover's depreciation expense adjustment related to additions to plant in service other than Brunswick No. 2, we will use $41,271,000 ($40,219,000 + 1,052,000) as the proper amount to be included as depreciation expense in calculating total operating revenue deductions.

The next area of disagreement is taxes other than income. This difference arises from Witness Davis' adjustment to gross receipts tax resulting from adjustments (net) to operating revenues, Witness Hoover's adjustments to property tax expense, and adjustments to gross receipts tax occasioned by Witness Irish's weather and growth adjustments.

Witness Davis' adjustment to gross receipts tax is consistent with adjustments to operating revenues previously adopted. Witness Hoover's adjustment to property tax expense related to property tax on additions to plant in service other than Brunswick No. 2 is consistent with the Commission's having adopted the related adjustment to electric plant in service. As proposed by Witness Hoover, the Commission believes the appropriate property tax rate to use in the calculation of the adjustment to property tax expense applicable to electric plant in service other than Brunswick No. 2 is the 1974 effective tax rate. Also, as proposed by Witness Hoover, the Commission believes the appropriate tax rate to use in the calculation of the adjustment to property tax expense applicable to Brunswick No. 2 is the actual 1975 property tax rate for Brunswick County. As we have explained, the Commission has adopted a part of Witness Irish's weather adjustment and Witness Irish's growth adjustment was withdrawn from evidence. Accordingly, the Commission will use $30,933,000 as the proper amount to be included as taxes other than income in calculating total operating revenue deductions.

The next area of disagreement is the amount to be included as current state and federal income tax expense. This difference represents the income tax effects related to accounting and pro forma adjustments proposed by each witness.

Consistent with the Commission's having previously adopted certain accounting and pro forma adjustments, it is entirely proper to include the related income tax effects of these adjustments. The Commission will use $1,158,000 as the proper amount of current state income tax expense and $5,808,000 as the proper amount of current federal income tax expense to be included in test year operations under present rates for purposes of setting rates in this proceeding.

The remaining difference between the level of operating revenue deductions proposed by each witness is the amount

properly includable as the current provision for deferred income taxes. This difference arises from Witness Davis' adjustment to reflect elimination of fuel deferral accounting and Witness Hoover's adjustments to reflect comprehensive interperiod allocation of income taxes. Witness Davis' adjustment represents the related tax effect of pro forma adjustments previously adopted by the Commission.

Interperiod income tax allocation accounts for timing differences between the periods in which transactions affect taxable income and the periods in which such transactions affect the determination of book income. The Commission believes that the increased cash flow, the reduction in external financing requirements and the improved fixed charge coverages which will result from adoption of Witness Hoover's adjustments would be beneficial to the Company and its customers. The Commission will use $15,374,000 as the proper amount to be included as the current provision for deferred income taxes in calculating total income tax expense for purposes of setting rates in this proceeding.

Based upon all the evidence offered by the witnesses, the Commission concludes that the proper level of operating revenue deductions, including interest on customer deposits, is $279,502,000, calculated as follows:

| | |
|---|---|
| Net operating and maintenance | $186,148,000 |
| Depreciation | 41,271,000 |
| Taxes other than income | 30,933,000 |
| Income taxes - State | 1,158,000 |
| Income taxes - Federal | 5,808,000 |
| Investment tax credit - net | (1,287,000) |
| Deferred income taxes - net | 15,374,000 |
| Interest on customer deposits | 97,000 |
| Total revenue deductions | $279,502,000 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The Commission will now analyze the testimony and exhibits presented by the Company and by the Staff concerning the Job Development Investment Tax Credit. The Company and the Staff disagree with regard to the rate-making treatment to be accorded this item of cost-free capital. The Company contends that the legislative intent was for the Company to earn the full equity return on the unamortized balance of the Job Development Investment Tax Credit, while the Staff maintains that the Revenue Act of 1971 requires only that the funds arising from the Job Development Investment Tax Credit should receive no less than the overall cost of capital. The Company's position is based on the House Ways and Means Committee Report No. 92-533 and the Senate Finance Committee Report No. 92-437. The following excerpts from the House and Senate Committee Reports tend to support the Company's contention.

House Report No. 92-533:

> "In determining whether or to what extent a credit has been used to reduce the rate base, reference is to be made to any accounting treatment that can affect the company's permitted profit on investment by treating the credit in any way other than as though it had been contributed by the company's common shareholders. For example, any lesser 'cost of capital' assigned to the credit would be treated as, in effect, a rate base adjustment."

Senate Report No. 92-437:

> "In determining whether or to what extent a credit has been used to reduce the rate base, reference is to be made to any accounting treatment that can affect the company's permitted profit on investment by treating the credit in any way other than as though it had been contributed by the company's common shareholders. For example, if the 'cost of capital' rate assigned to the credit is less than that assigned to common shareholders' investment, that would be treated as, in effect, a rate base adjustment."

The following excerpt from the Internal Revenue Service's proposed Reg. Section No. | of 46-5 tends to support the Staff's position:

> "In determining whether or to what extent a credit allowed under section 38 (determined without regard to section 46(e)) reduces the rate base, reference shall be made to any accounting treatment of such credit that can affect the taxpayer's permitted profit on investment. Thus, for example, assigning a 'cost of capital' rate to the amount of such credit which is less than the permissible overall rate of return (determined without regard to the credit) would be treated as, in effect, a rate base adjustment. What is the overall rate of return depends upon the practice of the regulatory body. Thus, for example, an overall rate of return may be a rate determined on the basis of an average or weighted average of allowable rates of return on investments by common stockholders, preferred stockholders, and creditors."

For purposes of setting rates in this case, the Commission concludes that the Job Development Investment Tax Credit should be treated as common equity. This treatment will afford the Company a better opportunity to achieve the fair rate of return herein allowed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Three witnesses testified on the subject of cost of capital/fair rate of return. The Company presented Dr. John K. Langum, a consulting economist and Mr. Eugene W. Meyer, a Vice President and Director of Kidder, Peabody & Co., Inc., an investment banking and securities brokerage firm. The

Staff presented Mr. Edwin A. Rosenberg, an economist with the Staff.

Dr. Langum testified that he believed that the Company should be allowed to earn the following level of returns: 8.25% on rate base, 15% on book common equity and 10.85% on the fair value of the common equity. Mr. Meyer testified that he believed that the investors in the common equity of CP&L would be fairly treated if the Company were given the opportunity to earn a rate of return of at least 16.3% on its book common equity, which would, in his opinion, allow CP&L's common stock to sell on the market at a premium of twenty percent (20%) over book value. Mr. Rosenberg stated that, after studying the application and the accounting testimony and exhibits in this case, together with his recently completed analysis of the fair rate of return for Duke Power Company, which he found comparable to CP&L, he did not believe that the proposed increase in revenues would produce a level of returns to the Company which would be unreasonable or excessive.

The Commission concludes that the testimony of the accounting witnesses (especially Mr. Hoover) and the fair rate of return witnesses, when viewed together, clearly shows that the proposed revenue increase will not allow the Company the opportunity to earn a level of return in excess of that which is just and reasonable. Indeed, the level of returns which are indicated, were the entire rate increase granted, are below those which were allowed in CP&L's most recent general rate case, and it must be said that such returns are in the lower portion of the reasonable range of return. If industrial activity (hence electricity usage) increases in the Company's service area as the economic recovery continues, the additional sales that would result could produce a slightly higher level of returns on the Company's book equity, fair value equity and rate base.

The Commission has heretofore found the fair value of CP&L's property in service to retail customers in North Carolina, the revenue and rates of return expected from both present and proposed rates and the reasonable level of operating expenses as required by G.S. 62-133. The Commission concludes that, given efficient management, the rates approved herein should produce a level of returns sufficient to allow CP&L to produce a fair profit for its stockholders, maintain its present level of service to the public and compete in the market for capital funds on reasonable terms.

The following charts summarize the gross revenues and the rates of return which the Company should have a reasonable opportunity to achieve based upon the full rate increase approved herein. Such charts incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

CAROLINA POWER & LIGHT COMPANY
North Carolina Retail Operations
STATEMENT OF RETURN
Twelve Months Ended December 31, 1974
(Adjusted for Known Changes Subsequent to December 31, 1974)
(000's Omitted)

| Line No. | (1) | Present Rates (2) | Proposed Increase (3) | Requested Rates (4) |
|---|---|---|---|---|
| 1. | Operating Revenues | | | |
| 2. | Net Operating Revenues | $ 337,965 | $81,780 | $ 419,745 |
| 3. | Operating Revenue Deductions | | | |
| 4. | Net Operation & Maintenance | 186,148 | | 186,148 |
| 5. | Depreciation | 41,271 | | 41,271 |
| 6. | Taxes Other Than Income | 30,933 | 4,907 | 35,840 |
| 7. | Income Taxes - State | 1,158 | 4,612 | 5,770 |
| 8. | Income Taxes - Federal | 5,808 | 34,685 | 40,493 |
| 9. | Investment Tax Credit-Net | (1,287) | | (1,287) |
| 10. | Deferred Income Taxes-Net | 15,374 | | 15,374 |
| 11. | Interest on Customer Deposits | 97 | | 97 |
| 12. | Total Revenue Deductions | 279,502 | 44,204 | 323,706 |
| 13. | Net Operating Income for Return | $ 58,463 | $37,576 | 96,039 |
| 14. | Original Cost Net Investment | | | |
| 15. | Electric Plant in Service | $1,226,392 | | $1,226,392 |
| 16. | Net Nuclear Fuel | 10,877 | | 10,877 |
| 17. | Less: Accumulated Depreciation | 195,921 | | 195,921 |
| 18. | Net Electric Plant | 1,041,348 | | 1,041,348 |
| 19. | Allowance for Working Capital | | | |
| 20. | Materials and Supplies | 44,602 | | 44,602 |
| 21. | Cash Allowance | 32,388 | | 32,388 |
| 22. | Less: Accrued Taxes | 11,504 | | 11,504 |
| | Customer Deposits | 2,842 | | 2,842 |
| 23. | Total Working Capital Allowance | 62,644 | | 62,644 |
| 24. | Total Original Cost Net Investment | $1,103,992 | | $1,103,992 |
| 25. | Fair Value Rate Base | $1,267,384 | | $1,267,384 |
| 26. | Return on Fair Value Rate Base | 4.61% | | 7.58% |

CAROLINA POWER AND LIGHT COMPANY
North Carolina Retail Operations
RETURN ON COMMON EQUITY
Twelve Months Ended December 31, 1974
(Adjusted for Known Changes Subsequent to December 31, 1974)

(000's Omitted)

| Capitalization | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income for Return |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 557,406 | 43.98 | 7.777 | $43,349 |
| Preferred stock | 161,624 | 12.75 | 8.013 | 12,951 |
| Common Equity | 515,565 1/ | 40.68 | .420 | 2,163 |
| Cost-free | 32,789 2/ | 2.59 | | |
| Total | $1,267,384 | 100.00 | | $58,463 |
| | Approved Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 557,406 | 43.98 | 7.777 | $43,349 |
| Preferred stock | 161,624 | 12.75 | 8.013 | 12,951 |
| Common equity | 515,565 1/ | 40.68 | 7.708 | 39,739 |
| Cost-free | 32,789 2/ | 2.59 | | |
| Total | $1,267,384 | 100.00 | | $96,039 |

1/ Includes Job Development Investment Tax Credit of $14,856.
2/ Includes adjustments to reflect comprehensive interperiod income tax allocation of $8,035.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 AND 15

Evidence presented in this docket showed that the rates proposed by CP&L would greatly reduce the variations in rates of return between rate classifications based on the Company's 1974 cost-of-service study. The evidence did, however, indicate that large variations in rates of return would still exist between rate classifications and between rate schedules within rate classes. More specifically, the cost-of-service study indicated that the residential class would have the lowest rate of return; the rate of return on the large general service class would be slightly above average; and the rate of return earned by the small general service class would be much greater than the average rate of return. The increase in rates to the residential class would be slightly greater than average; the increase to the large general service class would approximate the average

increase; and the major small general service schedules would receive less than the average rate increase.

Evidence presented by the Company and supported by the Staff suggested that the results of a cost-of-service study should be used as a guide in the setting of rates but should not be used as the sole determining factor in electric rate design. The cost-of-service study is based upon estimates, and the relative returns will change from year to year depending upon changes in costs, customer usage patterns and customer growth patterns.

The Commission is of the opinion that CP&L's cost-of-service study is an appropriate and meaningful guide in the design of utility rates. The rates proposed by the Company in this docket greatly reduce the variations in rates of return between rate schedules based on the 1974 cost-of-service study. In the Commission's current investigation of peak-load pricing, Docket No. E-100, Sub 21, costing methodologies other than average costs (e.g. the use of long-run incremental costs) have been proposed and are being studied. The Commission is aware that the results of cost-of-service studies can be altered substantially by changes in costs (costing methodologies) and usage characteristics. For these reasons, the Commission concludes that gradual equalization of rates of return, such as will be realized by the relative rate levels proposed by CP&L in this case, is appropriate until such time as the results of studies using other costing methodologies can be fully analyzed.

With respect to the rates other than those charged to residential customers, the Commission concludes that the design of the rate schedules filed by the Company in this docket is appropriate, just, and reasonable. The Commission further concludes that all new or adjusted schedules, provisions and service rules and regulations, with the exception of the residential schedules, should be approved as filed with a modification discussed hereafter to adjust the fuel costs in the basic rates to the level approved herein.

The proposed rates filed by CP&L in this docket included several substantial changes in rate design. One rate schedule was eliminated and three others were closed to new customers (to be phased out completely in the future). In addition, a number of riders were eliminated or changed. The principal effects of these changes are to reduce the number of rate schedules, and thereby simplify CP&L's rate structure, and to charge customers affected in a manner more consistent with the actual cost of serving them. (In most cases, the rate schedules being dropped or phased out earned returns well below the average rate of return.)

The proposed changes to the remaining major general service schedules were similar in nature. The number of energy blocks in the rate structures were reduced and the energy charges were increased less than the demand charges.

This placed more of the increase on the demand portion of the rate schedule. These changes were made in an effort to match prices with actual costs and resulted in larger increases for customers with high demands relative to energy usage (i.e., low load factor customers).

The remaining major rate design change proposed by the Company for its general service schedules was the ratchet provision used to determine the minimum billing demand. The Company proposed a ratchet which sets billing demand at the maximum of (1) the actual monthly reading, (2) 90% of the maximum reading during the billing months of July through October of the preceding eleven months, (3) 50% of the maximum reading during the billing months of November through June of the preceding eleven months, or (4) 75% of the contract demand until the billing demand equals or exceeds the contract demand. The evidence presented indicated that this ratchet was more cost-justified than the perpetual ratchet previously in effect. The 90% ratchet provision was designed to recognize the higher costs associated with serving customers during the peak period due to the necessity of providing generating facilities to serve peak demands. The 50% provision for customer peak usage in months other than the system peaking months was designed to recover the costs of "local" facilities, i.e., transmission, distribution, transformation, and metering facilities installed to serve only the load of a particular customer. The contract demand provision provides appropriate revenue to the Company from the customers who request oversized facilities to offset the cost of such facilities.

The evidence presented also indicated that the proposed ratchet is based on "non-coincident" customer peak demand. The minimum billing demand is determined from a customer's maximum demand at any time during a four-month period rather than from the customer's actual contribution to the system peak.

While other ratchet designs were recommended by some intervenors, the ratchet proposed by CP&L charges customers on an average for their demand during the summer peaking period and thus recognizes their contributions to system peak more accurately than do any of the other proposals in view of current metering facilities. For these reasons the Commission concludes that the ratchet proposed by CP&L is appropriate, just, and reasonable, and that all provisions of the Company's general service rates should be approved as filed.

If metering were universally available which could record a customer's demand at the time of the system peak, or during a small period of time surrounding the system peak, rates could be designed which would charge each customer on the basis of the costs that are incurred to supply his load. This entire subject matter is presently being considered by the full Commission in the context of its generic hearings concerning peak-load pricing, load management and

conservation (Docket E-100, Sub 21). We conclude that no action should be taken in this Docket which might conflict with decisions that will relate to all electric utilities in North Carolina and which should more appropriately be made by the full Commission in Docket E-100, Sub 21.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The rates proposed by CP&L in this docket are based upon the general format of the residential rate schedules previously in effect. The proposed increases were applied to the existing rate designs by adding different percentage increases to the base rates in each kilowatt-hour block, raising the customer minimum bill, and adding a fuel adjustment charge of 5.87 mills per kilowatt-hour.

The Commission concludes that an appropriate rate design should reflect the cost of providing electric service to customers, encourage the conservation of energy resources, and promote economic efficiencies. The approved residential rate schedules attached hereto as Exhibit A are designed with pricing changes to reflect a more equitable and efficient rate design.

The cost of serving electric users may be divided into customer, demand, and energy costs. The customer cost component varies with the number of customers being served. The demand cost component varies with the load imposed on the system facilities by the customer. The energy cost component varies with kilowatt-hour consumption.

Customer costs, which include billing costs and such plant items as the meter and service drop and part of the distribution plant, are costs incurred by CP&L regardless of the kilowatt-hours (KWH) of electricity sold to customers. However, CP&L does not have a separate charge in its residential rate schedules to recover customer costs. CP&L attempts to recover these customer costs through minimum bills and in the early blocks of the rate schedules. Under the present CP&L rates, the minimum bill is $2.00 for each residential rate schedule. In the proposed residential rate schedules, the minimum bill is raised to $2.80. Attempting to recover customer costs in the early blocks inflates the early block rates above those rates necessary to recover energy and demand costs.

Dr. Dennis Goins, a Commission Staff Economist, advocated the introduction of a separate customer charge in order to recover most of the customer costs. The approved rate schedules attached introduce a $5.00, a $4.55, and a $4.40 per month customer charge in Schedules R-2, R-3, and R-4, respectively. These customer charges are collected from all customers each month regardless of KWH consumption. Customer costs are fixed costs, and customer charges will enable CP&L to recover most of these particular fixed costs independent of the KWH blocks.

Dr. Goins stated that the introduction of the customer charge and the approved KWH block charges will eliminate some of the intraclass cross-subsidization which presently exists in the residential rate schedules. Monthly bills assigned to vacation or second homes which are vacant much of the year will more accurately reflect the cost of serving these dwellings.

In addition, the approved rates include an adjustment of $.00116 per KWH to reflect a total fuel cost component of $.009149 per KWH. The rates in each rate schedule are designed to reflect more accurately the costs of providing electric service to all customers.

The Commission was also urged by Dr. Goins to create a summer-winter price differential for the R-2 rate schedule. Evidence presented in this docket showed a difference of approximately 500 megawatts between the 1974 summer and 1974-75 winter system peak demands. Between 1972 and 1974 the coincident peak demand of classes R-2 and R-3 grew at annual rates of 28.62 percent and 12.78 percent, respectively, while the number of customers in these classes grew at rates of only 19.96 percent and 3.02 percent, respectively.

The R-2 winter heating rate was introduced to encourage the off-peak consumption of electricity in order to balance CP&L's system load and, thus, to improve CP&L's system annual load factor. The relatively high annual load factor of the R-2 customer class indicates that the R-2 rate schedule has been successful in achieving these goals. However, the lower tail block heating rate on the R-2 schedule applies during the entire year instead of applying only during off-peak months. The lower tail block rate on the R-2 schedule presently serves to encourage both peak and off-peak electricity consumption by stimulating the use of air conditioning during the summer peak months. Allowing the R-2 tail block rate to be in effect during the summer peak months gives R-2 customers improper peak-load pricing signals and results in a form of discriminatory pricing with respect to the tail block rates charged to customers on Schedule R-3 and Schedule R-4. Dr. Goins recommended that the same price be charged on each residential rate schedule during the summer usage months (i.e. billing months of July through October; actual usage months of June through September) for consumption exceeding 800 KWH in order to provide more proper price signals regarding the higher cost of providing electricity during peak periods and to remove one element of price discrimination which presently exists in the residential rates.

The Commission agrees that a summer-winter price differential for Schedule R-2 is a proper means by which to attempt to achieve goals of efficiency and equity in the pricing of electricity for residential customers. Although the evidence showed that classes R-3 and R-4 have higher load factors than do class R-2 customers during the month of

the system summer peak, the annual class R-2 load factor exceeds the annual R-3 and R-4 load factors. By maintaining Schedule R-2 during the winter usage months (i.e. billing months of November through June; actual usage months of October through May) with lower rates for usage above 1500 KWH, the approved residential rate schedules reflect the lower unit demand and energy costs imposed on the system by all-electric customers during off-peak periods.

The rate schedules have been simplified by removing three blocks from Schedule R-4, four blocks from Schedule R-3, five blocks from the Schedule R-2 summer rates, and four blocks from the Schedule R-2 winter rates.

The Commission is of the opinion that the residential rates schedules listed as "Approved" in Exhibit A (R-2, R-3, and R-4 rate schedules) should be substituted for the CP&L proposed rate schedules in order to reflect a more equitable and efficient rate design.

In Docket No. E-100, Sub 21, this Commission is investigating peak-load pricing, time-of-day metering, conservation, and load management for electric utilities operating in North Carolina and is considering regulatory initiatives directed towards the promotion of energy conservation through system load management and control of peak demands. Pending final disposition in that docket, however, the Commission is of the opinion that the electric utilities subject to its jurisdiction can and should take steps to balance their system loads by promoting reduced consumption of electricity during periods of anticipated system peak demands.

Much of the increased need for electric generating capacity can be attributed to growth in the demand for electricity during system peak periods. Therefore, the Commission seeks to slow the growth of the system peak demands of electric utilities operating in North Carolina by creating an awareness among consumers of their contribution to system peak demands and, consequently, their contribution to the need for additional generating plant; and further to encourage consumers to help slow the growth in the system peak by voluntarily restricting their consumption of electricity during periods of peak demands and deferring such consumption to off-peak periods.

The Commission believes that greater consumer awareness of the relationship between electricity usage at the time of system peak and the need for additional electric generating facilities can lead consumers to voluntarily refrain from unnecessary consumption of electricity at such times. While the Commission is aware that such voluntary restriction of electric consumption at the time of system peak will not eliminate the need for additional generating facilities, it may slow growth in the demand for such facilities.

Chapter 780 of the Session Laws of 1975 (S.B. 420) authorizes the Commission to "direct each electric public utility to notify its customers by the most economical means available of the anticipated periods in the near future when its generating capacity is likely to be near peak demand and urge its customers to refrain from using electricity at these peak times of the day." In accordance therewith, the Commission herein directs Carolina Power & Light Company to develop and implement plans for the reduction of system peak through:

1. Continuing education of its customers and the general public in the need for and methods of controlling system peak;

2. Use of mass communication to promote conservation of energy during anticipated periods of peak demand and to inform customers of methods to reduce the unnecessary use of electricity and to postpone nonessential usage;

3. Promotion of effective load management and efficient use of electricity by offering direct assistance to customers.

Such plans should take maximum advantage of the opportunity for public service announcements undertaken in cooperation with service area news media, and other such means as may present themselves, in order to follow the statutory mandate to employ the most economical means available for notifying and educating the public. In addition, such plans should demonstrate the willingness of the utility to encourage its customers to restrict their consumption of electricity during anticipated periods of peak demand.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 and 18

The basic rates proposed by Carolina Power & Light Company in this proceeding included a total fuel cost component of 1.010 cents per KWH. These rates were designed in mid-1975. Since that time fuel costs have decreased and stabilized to a large extent.

The most appropriate rate structure for CP&L would include total current fuel costs in the basic rate structure. The rates could then be designed considering known factors occurring up to the time the hearing is closed. The General Assembly, in ratifying new G.S. 62-133(c), intended to allow the Commission to consider relevant, material and competent evidence based upon circumstances and events occurring up to the time the hearing is closed.

Staff Witness Williams testified that fuel cost levels on a KWH sales basis for the calendar year ending December 31, 1975, were 0.860 cents per KWH, including nuclear fuel, fossil fuel and the energy portion of purchased power and interchange power. The Commission is of the opinion that

this fuel cost level is an appropriate amount to include in the basic rate structure and that the rates should be designed to reflect a total fuel cost component of 0.860 cents per KWH. This adjustment requires that the price of each rate block of each rate schedule be reduced by an average of 0.16 cents per KWH, which is the difference between the fuel cost level in the proposed rates and the average 1975 fuel costs as annualized, plus the associated gross receipts taxes. The Commission concludes that this adjustment to said proposed rates is proper.

The recently enacted G.S. 62-134(e) provides, in part, as follows:

"(e) Notwithstanding the provisions for this Article, upon application by any public utility for permission and authority to increase its rates and charges based solely upon the increased cost of fuel used in the generation or production of electric power, the Commission shall suspend such proposed increase for a period not to exceed 90 days beyond the date of filing of such application to increase rates . . . . The Commission shall promptly investigate applications filed pursuant to the provisions of this subsection and shall hold a public hearing within 30 days of the date of the filing of the application . . . . The order responsive to an application shall be issued promptly by the Commission but in no event later than 90 days from the date of filing of such application. A proceeding under this subsection shall not be considered a general rate case. All monthly fuel adjustment rate increases based solely upon the increased cost of fuel . . . as presently approved by the Commission shall fully terminate effective September 1, 1975 . . .; provided, however, that the termination date of September 1, 1975, shall not apply to any public utility which has filed an application under this subsection on or before July 1, 1975, and where the Commission has not issued a final order by September 1, 1975 . . . ."

CP&L has a current adjustment in its basic rates, pursuant to G.S. 62-134(e), which reflects fuel cost changes since the 1973 fuel cost levels. This adjustment (excluding the surcharge designed to recover fuel expense deferred as of August 31, 1975) should be terminated with the effective date of the rates approved herein, because these new approved rates reflect updated, current fuel cost levels.

Should generating and fuel cost statistics of subsequent months reflect fuel cost levels different from those reflected in the updated basic rates, then CP&L may file for adjustments to its rates pursuant to G.S. 62-134(e) and Commission Rule R1-36. (If the generating and fuel cost statistics for the third month preceding the month these new rates become effective indicate a reduction in fuel costs when applied to the formula attached as Exhibit B, then CP&L should file a downward adjustment for the first billing month.)

The Commission concludes that future filings for rate increases based solely on the cost of fuel pursuant to G.S. 62-134(e) can be reviewed more effectively if such filings are made pursuant to the formula proposed by Staff Witness Williams and attached hereto as Exhibit B. This formula includes nuclear, as well as fossil fuel, and the energy portion of purchased power and interchange power. This formula may be used to facilitate processing of applications pursuant to G. S. 62-134(e). CP&L should file on a monthly basis computations required for this formula to assist the Commission and the Staff in monitoring fuel costs and their possible effects on future retail electric rates.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Company Witness Reilly testified that he had recommended revised depreciation rates for CP&L after giving consideration to available past retirement experience, present and anticipated future system requirements, and industry-wide trends relating to future life expectancy of various classes of property. Of primary importance with respect to the production plant are the more rigid pollution and environmental requirements and the fuel oil crisis, which, he testified, tend to reduce the useful life of fossil and nuclear production plant.

Witness Reilly stated that as a result of reducing estimated service lives the depreciation reserves recorded on the Company's books were inadequate. His depreciation rates, therefore, were calculated to recover this inadequacy over the remaining life of the plant in service. Mr. Reilly stated that any large plant additions would cause over-accruals if his composite depreciation rates were not adjusted. He testified that an alternative method would be to charge a fixed amount to depreciation each year, in addition to the expense derived from applying "normal" depreciation rates, to amortize the reserve deficiency.

Commission Staff Witness Land testified that the Company's application for increased depreciation rates did not include all the recommendations of Witness Reilly as described above. He stated that the Company's accruals to recover the reserve deficiency should be reviewed annually if approved as proposed by the Company. He also stated that the best method to recover the reserve deficiency would be to amortize it in equal, annual dollar amounts over the remaining life of the plant in service (the alternative proposed by Mr. Reilly).

Witness Land also testified that the Company's proposal to reduce the estimated service life of nuclear production plant from 30 to 25 years was not based on mortality data. He stated that the service life should not be reduced below 28 years at this time since mortality data is not available. He further testified, however, that in the absence of mortality data, it is necessary to consider the anticipated lives of existing plants based on criteria which include

physical life, functional life, and alterations required for safety or environmental reasons. Based upon the foregoing criteria as applied to CP&L, the Commission concludes that a 25-year estimated service life of nuclear plant is appropriate in this case.

The Commission, therefore, concludes that the normal depreciation rates as proposed by the Company and restated herein in Exhibit C should be allowed. The book reserve for depreciation at December 31, 1974, for plant in service allocated to North Carolina was $256,635,464. According to the evidence presented, the theoretical reserve requirement at that date was $291,171,949. This difference of $34,536,485 should be amortized as additional depreciation expense over a period of 25.5 years which is approximately the remaining life of the plant in service. Accordingly, CP&L should be required to:

(1) Adjust the book reserve for each account in the depreciation subledger to equal the theoretical balance of December 31, 1974, as further adjusted to reflect subsequent accruals; and

(2) Place the resulting deficiency in a separate subaccount and credit this account monthly in the amount of $112,826 with the amortization allowed above.

IT IS, THEREFORE, ORDERED as follows:

1. That effective for retail electric service rendered in North Carolina on and after the date of this Order, Carolina Power & Light Company is hereby allowed to place into effect the increased rates described in paragraph 2 below, which rates are designed to produce additional annual revenues in the amount of $81,780,000.

2. That the residential rates approved herein are to be designed as set forth in Exhibit A attached hereto, and the rate schedules listed as "Approved" in Exhibit A shall be substituted for CP&L's proposed residential rate schedules. All other rate schedules are approved as filed herein, except that such schedules shall be adjusted to include only the fuel cost component approved herein, and such approved fuel cost component shall apply to all nonmetered as well as metered rate schedules. CP&L shall file new rate schedules in conformance with this Ordering Paragraph within ten (10) days of the date of this Order.

3. That the revenues collected by CP&L under the interim increases heretofore approved in this docket are hereby affirmed as just and reasonable and the undertakings filed with said interim rates are hereby discharged and cancelled.

4. That the adjustment to the existing basic rates approved pursuant to G.S. 62-134(e) [excluding the surcharge designed to recover fuel expenses deferred as of August 31, 1975] is terminated with the effective date of the revised

basic rates approved herein pending future applications under G.S. 62-134(e).

5. That CP&L shall supply the Commission, on a monthly basis, the computations required by the formula attached hereto as Exhibit B. Such formula shall henceforth constitute the basis of rate filings by CP&L pursuant to G.S. 62-134(e).

6. That CP&L is directed to implement the programs with respect to cost control and consumer information as described in the evidence set forth hereinbefore in the Evidence and Conclusions for Finding of Fact No. 16. The Commission hereby directs CP&L to furnish its plans as required hereunder within ninety (90) days of the date of this Order.

7. That, pursuant to Ordering Paragraph No. 7, supra, CP&L shall file, within ninety (90) days of the date of this Order, a tariff which would allow a residential customer to make use of a nonfossil energy source (e.g., wind, solar) as a supplement to such customer's electric energy, particularly during peak periods of use, without disqualifying such customer from any rate schedule for which he would otherwise qualify.

8. That the depreciation rates attached hereto as Exhibit C are approved for use by the Company. CP&L shall amortize the deficiency in its reserve accounts by using the methodology prescribed in the Evidence and Conclusions for Finding of Fact No. 19.

9. That Carolina Power & Light Company shall give public notice of the rate increase approved herein by mailing a copy of the Notice attached as Appendix "1" by first class mail to each of its North Carolina retail customers during the next normal billing cycle.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Exhibit A

RESIDENTIAL SERVICE - ALL ELECTRIC
SCHEDULE R-2

| Present Rates 1/ | Proposed Rates | |
|---|---|---|
| 4.99¢ | 7.02¢ | per KWH for the first 50 KWH |
| 3.71¢ | 5.37¢ | per KWH for the next 100 KWH |

| | | |
|---|---|---|
| 2.43¢ | 3.72¢ | per KWH for the next 50 KWH |
| 1.79¢ | 2.90¢ | per KWH for the next 50 KWH |
| 1.28¢ | 2.24¢ | per KWH for the next 50 KWH |
| 2.10¢ | 3.29¢ | per KWH for the next 500 KWH |
| 1.75¢ | 2.84¢ | per KWH for the next 1700 KWH |
| 1.63¢ | 2.69¢ | per KWH for all over 2500 KWH |
| $2.00 | $2.00 | Minimum Bill |

Approved Rates [2]

| Summer [3] | Winter [4] | |
|---|---|---|
| $5.00 | $5.00 | Basic Facilities Charge [5] |
| 3.34¢ | | per KWH for the first 350 KWH |
| 2.72¢ | | per KWH for the next 450 KWH |
| 3.09¢ | | per KWH for all over 800 KWH |
| | 3.34¢ | per KWH for the first 350 KWH |
| | 2.72¢ | per KWH for the next 450 KWH |
| | 2.99¢ | per KWH for the next 700 KWH |
| | 2.15¢ | per KWH for all over 1500 KWH |

[1] Rates approved in Commission order dated January 6, 1975; rates do not include current Approved Fuel Charge

[2] KWH rates include 0.91491¢/KWH for fuel cost (12 months ended December 1975) and associated gross receipts tax

[3] Billing months of July through October; usage months of June through September

[4] Billing months of November through June; usage months of October through May

[5] Basic Facilities Charge applies regardless of KWH consumed

Exhibit A

RESIDENTIAL SERVICE - WATER HEATING
SCHEDULE R-3

| Present Rates [1] | Proposed Rates | |
|---|---|---|
| 4.99¢ | 7.02¢ | per KWH for the first 50 KWH |
| 3.71¢ | 5.37¢ | per KWH for the next 100 KWH |
| 2.43¢ | 3.72¢ | per KWH for the next 50 KWH |
| 1.79¢ | 2.90¢ | per KWH for the next 50 KWH |
| 1.28¢ | 2.24¢ | per KWH for the next 50 KWH |
| 2.10¢ | 3.29¢ | per KWH for the next 500 KWH |
| 2.40¢ | 3.68¢ | per KWH for all over 800 KWH |
| $2.00 | $2.80 | Minimum Bill |

| Approved Rates [2] | |
|---|---|
| $4.55 | Basic Facilities Charge [3] |
| 3.34¢ | per KWH for the first 350 KWH |
| 2.72¢ | per KWH for the next 500 KWH |
| 3.09¢ | per KWH for all over 800 KWH |

1/ Rates approved in Commission order dated January 6, 1975; rates do not include current Approved Fuel Charge

2/ KWH rates include 0.9149¢/KWH for fuel cost (12 months ended December 1975) and associated gross receipts tax

3/ Basic Facilities Charge applies regardless of KWH consumed

Exhibit A

RESIDENTIAL SERVICE - GENERAL
SCHEDULE R-4

| Present Rates [1] | Proposed Rates | |
|---|---|---|
| 4.99¢ | 7.02¢ | per KWH for the first 50 KWH |
| 3.71¢ | 5.37¢ | per KWH for the next 100 KWH |
| 2.43¢ | 3.72¢ | per KWH for the next 100 KWH |
| 1.92¢ | 3.07¢ | per KWH for the next 50 KWH |
| 2.65¢ | 4.01¢ | per KWH for the next 400 KWH |
| 2.40¢ | 3.68¢ | per KWH for all over 700 KWH |
| $2.00 | $2.80 | Minimum Bill |

| Approved Rates [2] | |
|---|---|
| $4.40 | Basic Facilities Charge [3] |
| 3.34¢ | per KWH for the first 350 KWH |
| 3.29¢ | per KWH for the next 450 KWH |
| 3.09¢ | per KWH for all over 800 KWH |

1/ Rates approved in Commission order dated January 6, 1975; rates do not include current Approved Fuel Charge

2/ KWH rates include 0.9149¢/KWH for fuel cost (12 months ended December 1975) and associated gross receipts tax

3/ Basic Facilities Charge applies regardless of KWH consumed

EXHIBIT B

FUEL COST FORMULA

$$F = \left( \frac{E}{S} - \$0.00850 \right) (T) (100)$$

Where:

F = Fuel adjustment in cents per kilowatt-hour.

E = Fuel costs experienced during the third month preceding the billing month, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518 excluding rental payments on leased nuclear fuel and except that, if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased power fuel costs such as those incurred in unit power and Limited Term power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange power fuel costs such as Short Term, Economy and other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity energy and payback of storage energy are not defined as purchased or Interchange power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the third month preceding the billing month.
$0.00850 = Base cost of fuel per KWH sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

EXHIBIT C

Approved Depreciation Rates for CP&L

| Plant Classification | Depreciation Rate - % |
|---|---|
| Steam Production Plant | 3.257 |
| Nuclear Production Plant | 4.224 |
| Hydraulic Production Plant | 1.143 |
| Other Production Plant | 4.000 |
| Transmission Plant | 2.274 |
| Distribution Plant | 3.151 |
| General Plant | |
| Account 392 - Transportation Equipment | 10.625 |
| Other Accounts | 3.410 |

APPENDIX "1"

DOCKET NO. E-2, SUB 264

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Carolina Power & Light )
Company for Authority to Adjust and ) NOTICE TO
Increase its Electric Rates and Charges ) CUSTOMERS

On July 15, 1975, Carolina Power & Light Company (CP&L) filed an application with the North Carolina Utilities Commission for authority to increase electric rates and charges to its North Carolina retail customers. The application requested approval of approximately a 22% increase in revenues, or a total of $81,780,000 in additional annual revenues. On August 20, 1975, the Commission granted CP&L interim rate relief in the amount of 12% out of the overall 22% increase which it had requested.

On February 20, 1976, the Commission issued its final decision in these dockets, which allowed CP&L to collect a total increase of $81,780,000 in additional annual revenues. The Order also approved rates designed to roll more current fuel costs into the basic rates. The Order approved residential rates which are designed to recover the cost to CP&L of providing electric service to its customers, to conserve energy resources, and to promote economic efficiencies. The approved residential rate schedules reflect a more equitable and efficient rate design.

The Commission directed CP&L to undertake a program to inform its customers with respect to their consumption of

electricity during system peak periods. The Commission believes that an awareness of wise conservation measures on the part of CP&L's customers can result in a stabilization of electric rates. The Commission further directed CP&L to undertake measures to control increases in costs, thereby holding electric rates down.

Copies of the approved rate schedules may be obtained at CP&L offices.

Issued this the 20th day of February, 1976.

CAROLINA POWER & LIGHT COMPANY

DOCKET NO. E-2, SUB 275

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of | |
| Application of Carolina Power and Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING ADJUSTMENT IN RATES AND CHARGES PURSUANT TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, January 19, 1976 at 2:00 P.M.

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Tenney I. Deane, Jr., and J. Ward Purrington, III

APPEARANCES:

For the Applicant:

William E. Graham, Jr., Attorney at Law, Carolina Power and Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

John T. Bode, Bode and Bode, P.A., P.O. Box 391, Raleigh, North Carolina 27602

For the Intervenors:

Robert P. Gruber, Assistant Attorney General, North Carolina Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

Paul L. Lassiter, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On December 18, 1975, Carolina Power and Light Company ("CP&L") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). CP&L sought approval of Fuel Charge Rider No. 36E to increase by 0.161 cents the charge for each kilowatthour of electricity sold as North Carolina retail service effective with the billing month of February, 1976.

On December 29, 1975, the Commission issued an Order Setting Hearing And Requiring Notice.

The hearing was commenced at the scheduled time and place. CP&L offered the testimony of Mr. James N. Davis, Jr., Assistant Director of Rates of CP&L, testifying as to the computation of the fuel adjustment factor, and Mr. Larry E. Smith, Manager-Fuel of CP&L testifying as to the changes in the cost of fuel used in the generation of electric power during the month of November, 1975.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., detailing the Staff's review of the evidence presented by CP&L in support of Fuel Charge Rider No. 36E.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider No. 36E, proposed by CP&L is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Carolina Power and Light Company's basic rates of 0.325¢/KWH, Fuel Charge Rider No. 36E, which adjusts CP&L's basic rates by an increase of 0.486 cents for each kilowatthour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the February, 1976 billing month.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 278

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Carolina Power and Light<br>Company for Change in Rates Based on<br>Cost of Fuel | ) | ORDER DENYING<br>APPLICATION |

BY THE COMMISSION: On February 19, 1976, Carolina Power and Light Company filed an application for adjustment in rates and charges pursuant to G.S. 62-134(e). The application would reduce the fuel charge addition to the basic rates from $0.00464 per kilowatt-hour to $0.00435 per kilowatt-hour based on generation and fuel statistics for the month of January 1976. The $0.00435/KWH fuel charge was computed using a $0.00506/KWH fossil fuel component in the basic retail rates of CP&L, and was to become effective April 1, 1976.

On February 20, 1976, the Commission issued an Order Setting Rates in Carolina Power and Light Company general rate case, Docket No. E-2, Sub 264. That order, among other things, set the fuel cost level of the basic retail rates at $0.00860 per kilowatt-hour, including nuclear fuel, fossil fuel, and the energy portion of purchased power and interchange power. This adjustment in the fuel component of the basic rates from $0.0506/KWH for fossil fuel at 1973 levels to $0.00860/KWH for total fuel at 1975 fuel cost levels makes CP&L's Application of February 19, 1976 no longer appropriate.

IT IS, THEREFORE, ORDERED that the Application of Carolina Power and Light Company for Change in Rates Based on Cost of Fuel, Docket No. E-2, Sub 278, is denied.

ISSUED BY ORDER OF THE COMMISSION.

This is the 1st day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 281

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Carolina Power and<br>Light Company for Authority to Adjust<br>Its Electric Rates and Charges<br>Pursuant to G.S. 62-134(e) | ) | ORDER APPROVING<br>ADJUSTMENT IN RATES<br>AND CHARGES PURSUANT<br>TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 22, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

William E. Graham, Jr., Attorney at Law, Carolina Power and Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

John T. Bode, Bode & Bode, P.A., P.O. Box 391, Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Pruitt, Associate Attorney General, North Carolina Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Paul L. Lassiter, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On March 1, 1976, Carolina Power and Light Company ("CP&L") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). CP&L specifically sought approval of Fuel Charge Rider Number 37A to adjust the charge for each kilowatt-hour by the addition of $0.00006 to the basic retail rate schedules which were approved by the Commission in its Order in Docket No. E-2, Sub 264.

On March 8, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. CP&L offered the testimony of James M. Davis, Jr., Assistant Director of Rates and Regulation of CP&L, testifying as to the computation of the fuel adjustment factor, and Larry E. Smith, Manager-Fuel of CP&L, testifying as to the changes in the cost of fuel used in the generation of electric power.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by CP&L in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Rider Number 37A, proposed by CP&L is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider Number 37A which adjusts CP&L's basic retail rates by an increase of $0.00006 for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after April 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 282

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Application of Carolina Power | ) ORDER APPROVING REDUCTION |
| and Light Company for Change | ) IN RATES AND CHARGES |
| in Rates Based on Cost of Fuel | ) PURSUANT TO G.S. 62-134(e) |

BY THE COMMISSION: On March 25, 1976, the Commission issued an Order in Docket No. E-2, Sub 281, approving Rider No. 37A as an adjustment to the basic retail electric rates of Carolina Power and Light Company (CP&L) in the amount of $0.00006 per kilowatt hour based solely on increased fuel cost pursuant to North Carolina G.S. 62-134(e). Commission Rule R1-36 requires CP&L and the other electric utilities to immediately file for a downward adjustment to reflect any decrease in the cost of fossil fuel below the level existing in the basic rates.

On March 26, 1976, Carolina Power and Light Company filed an application to reduce the fuel charge addition to the basic rates from $0.00006/KWH to negative $.00202/KWH based on generation and fuel statistics for the month of February 1976. The proposed reduction would become effective on bills rendered on and after May 1, 1976.

With the application, the Company filed the affidavits of James M. Davis, Jr., Assistant Director of Rates and Regulation for CP&L, and Larry E. Smith, Manager-Fuel Section of the Bulk Power Supply Department of CP&L. Mr. Davis offered information as to the determination of the negative $0.00202/KWH factor. Mr. Smith reviewed CP&L's fuel purchasing practices for the month of February 1976.

After careful consideration and scrutiny of the affidavits filed by Carolina Power and Light Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Carolina Power and Light Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved fuel charge adjustment of $0.00006 per kilowatt hour, an adjustment of negative $0.00202 per kilowatt hour as shown on Rider No. 37B, is approved effective for bills rendered on and after May 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 285

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Application of Carolina Power and Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING ) ADJUSTMENT IN RATES ) AND CHARGES PURSUANT ) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, May 17, 1976 at 2:00 P.M.

BEFORE: Commissioner George T. Clark, Jr., Presiding; Commissioners W. Lester Teal, Jr., Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

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

John T. Bode, Bode and Bode, P.A., Post Office Box 391, Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

Antoinette Ray Wike, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 22, 1976, Carolina Power and Light Company ("CP&L") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). CP&L sought approval of Fuel Charge Rider No. 37C to decrease by 0.079 cents the charge for each kilowatthour of electricity sold as North Carolina retail service effective with the billing month of June, 1976.

On May 3, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. CP&L offered the testimony of Mr. James M. Davis, Jr., Assistant Director of Rates of CP&L testifying as to the computation of the fuel adjustment factor, and Mr. Larry E. Smith, Manager-Fuel of CP&L, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of March, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., detailing the Staff's review of the evidence presented by CP&L in support of Fuel Charge Rider No. 37C.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider No. 37C, proposed by CP&L is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Carolina Power and Light Company's basic rates of -0.202¢/KWH, Fuel Charge Rider No. 37C, which adjusts CP&L's basic rates by a decrease of 0.079 cents for each kilowatthour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the June, 1976 billing month.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 289

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Carolina Power and Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, July 19, 1976 at 2:00 P.M.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; Commissioners Barbara A. Simpson, W. Scott Harvey

APPEARANCES:

For the Applicant:

William E. Graham, Jr., Carolina Power and Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

John T. Bode, Bode and Bode, P.A., Post Office Box 391, Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Dwight Allen, Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 25, 1976, Carolina Power and Light Company ("CP&L") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e).

CP&L sought approval of Fuel Charge Rider No. 37E to increase by 0.035 cents the charge for each kilowatthour of electricity sold as North Carolina retail service effective with the billing month of August 1976.

On July 6, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. CP&L offered the testimony of Mr. James M. Davis, Jr., Assistant Director of Rates of CP&L testifying as to the computation of the fuel adjustment factor, and Mr. Larry E. Smith, Manager-Fuel of CP&L, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of May, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., detailing the Staff's review of the evidence presented by CP&L in support of Fuel Charge Rider No. 37E.

The Attorney General offered the testimony of Mr. Jim Rusher, representing the Duplin County Board of Commissioners, who testified as to the impact of Carolina Power and Light's Fuel Charge Rider upon the farmers of Duplin County.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider No. 37E, proposed by CP&L is correct and appropriate.

IT IS, THEREFORE, ORDERED:

(1) That in lieu of the previously approved adjustment for increased fuel costs to Carolina Power and Light Company's basic rates of -0.015¢/KWH, Fuel Charge Rider No. 37E, which adjusts CP&L's basic rates by an increase of 0.020 cents for each kilowatthour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the August, 1976 billing month, and

(2) That Carolina Power and Light Company include as an exhibit on all future applications pursuant to N.C.G.S. 62-134(e) and Commission Rule R1-36 a tabulation of its actual burned fuel expense, as defined in the recommended formula for rate increases based solely on the cost of fuel, and the total revenues collected (or billed) to recover fuel expense by the fuel cost component of the basic rates and the adjustments to the basic rates approved in G.S. 62-134(e) proceedings for each month of the twelve-month period ending with the cost month on which the new application is based.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 296

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Carolina Power and Light Company ) ORDER
For Change in Rates Based on Cost of Fuel ) APPROVING
September, 1976 ) DECREASE

BY THE COMMISSION: On October 26, 1976 Carolina Power and Light Company (CP&L) filed an application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.103 cents for each kilowatthour sold under its filed rate schedules on bills rendered on and after December 1, 1976.

The application of the Company sought approval of a negative 0.074¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.029¢/KWH adjustment previously approved by the Commission effective for the billing month of November, 1976. The 0.103¢/KWH decrease is based solely on the decreased cost of fuel used in the generation of electric power during the month of September, 1976.

With the application, the Company filed the affidavit testimonies of James M. Davis, Jr., Assistant Director of Rates and Regulation for the Company, and Larry E. Smith, Manager-Fuel for the Company. Mr. Smith's testimony detailed the Company's fossil fuel purchasing practices during the month of September, 1976. Mr. Davis' testimony concerning the calculation of the -0.074¢/KWH factor.

After careful consideration and scrutiny of the affidavits filed by Carolina Power and Light Company, the Commission is of the opinion, and so concludes, that the downward adjustment in rates proposed by the Company of -0.074¢/KWH in lieu of the previously approved 0.029¢/KWH is correct and appropriate.

IT IS, THEREFORE, ORDERED That Carolina Power and Light Company make an adjustment, based solely on the decreased cost of fuels, to its North Carolina retail electric rates of -0.074¢/KWH in lieu of the previously approved adjustment of 0.029¢/KWH, to become effective on bills rendered on and after December 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of November, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 298

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Carolina Power and Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN<br>) RATES AND CHARGES<br>) PURSUANT TO<br>) G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, December 20, 1976 at 2:00 P.M.

BEFORE: W. Scott Harvey, Presiding; Barbara A. Simpson and W. Lester Teal, Jr., Commissioners

APPEARANCES:

For the Applicant:

William E. Graham, Jr.
Vice President and General Counsel
Carolina Power and Light Company
Post Office Box 1551
Raleigh, North Carolina 27602

John T. Bode
Bode and Bode, P.A.
Post Office Box 391
Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt
Associate Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Paul L. Lassiter
Associate Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On November 19, 1976, Carolina Power and Light Company ("CP&L") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G. S. 62-134(e). CP&L sought approval of Fuel Charge Rider No. 37J to increase by 0.034 cents the charge for each kilowatt-hour of electricity sold as North Carolina retail service effective with the billing month of January, 1977.

On November 29, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. CP&L offered the testimony of Mr. David R. Nevil, Principal Analyst - Rates of CP&L testifying as to the computation of the fuel adjustment factor, and Mr. Larry E. Smith, Manager-Fuel of CP&L testifying as to the changes in the cost of fuel used in the generation of electric power during the month of October, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., detailing the Staff's review of the evidence presented by CP&L in support of Fuel Charge Rider No. 37J.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider No. 37J, proposed by CP&L is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for fuel costs to Carolina Power and Light Company's basic rates of a negative 0.074¢/KWH, Fuel Charge Rider No. 37J, which adjusts CP&L's basic rates by an increase of 0.034 cents for each kilowatt-hour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the January, 1977 billing month.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 196

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of Application of Duke Power Company for Authority to Adjust its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING ) ADJUSTMENT IN RATES ) AND CHARGES PURSUANT ) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, February 16, 1976, at 2:00 P.M.

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners W. Lester Teal, Jr., and J. Ward Purrington

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Intervenors:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

Theodore C. Brown, Jr., Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 29, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of a negative 0.1183 cents which is an increase of 0.0636¢/KWH from the negative 0.1819¢/KWH adjustment approved on January 13, 1976.

On February 13, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of Mr. William R. Stimart, Treasurer of Duke, testifying as to the computation of the fuel adjustment factor and Mr. R. H. Hall, Jr., Assistant Manager-Fuels Purchasing, Mill-Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of December, 1975.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of N.C.U.C., detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of -0.1819¢/KWH, an adjustment of -0.1183 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after March 2, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 200

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Duke Power Company for<br>Authority to Adjust its Electric<br>Rates and Charges Pursuant to<br>G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, March 22, 1976, at 2:00 P.M.

BEFORE: Commissioner J. Ward Purrington, Presiding; Commissioners W. Lester Teal, Jr., and Ben E. Roney

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Intervenors:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On February 27, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of a negative 0.1073 cents which is an increase of 0.0110¢/KWH from the negative 0.1183¢/KWH adjustment approved on February 26, 1976.

On March 1, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of William R. Stimart, Treasurer of Duke, testifying as to the computation of the fuel adjustment factor and R. H. Hall, Jr., Assistant Manager-Fuels Purchasing, Mill-Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of January, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of -0.1183¢/KWH, an adjustment of -0.1073 cents for each kilowatt-hour based solely on the

increased cost of fuel is approved effective for bills rendered on and after April 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 201

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
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| Application of Duke Power Company | ) | ORDER APPROVING |
| for Authority to Adjust its | ) | ADJUSTMENT IN RATES |
| Electric Rates and Charges | ) | AND CHARGES PURSUANT |
| Pursuant to G.S. 62-134(e) | ) | TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, April 26, 1976, at 2:00 P.M.

BEFORE: Commissioner George Clark, Jr., Presiding, Commissioner Tenney I. Deane, Commissioner Barbara A. Simpson

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, Paul L. Lassiter, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On March 25, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of a -0.1036 cents which is an increase of 0.0037¢/KWH from the negative 0.1073¢/KWH adjustment approved on March 25, 1976.

On April 5, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of Richard W. Holmes, Manager of Accounting for Duke, testifying as to the computation of the fuel adjustment factor and R. H. Hall, Sr., Manager of Fuel Purchasing for Mill Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of February, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of -0.1073¢/KWH, an adjustment of -0.1036 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after May 3, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 203

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
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| Application of Duke Power Company | ) ORDER APPROVING |
| for Authority to Adjust its | ) ADJUSTMENT IN RATES |
| Electric Rates and Charges | ) AND CHARGES PURSUANT |
| Pursuant to G.S. 62-134(e) | ) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, May 17, 1976, at 2:00 P.M.

BEFORE: Commissioner George T. Clark, Jr., Presiding, Commissioner W. Lester Teal, Jr., Commissioner Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Intervenors:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, Paul L. Lassiter, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 27, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of 0.0428 cents which is an increase of 0.1464¢/KWH from the negative 0.1036¢/KWH adjustment approved on April 28, 1976.

On May 3, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of William R. Stimart, Treasurer of Duke, testifying as to the computation of the fuel adjustment factor and R. H. Hall, Jr., Assistant Manager, Fuels Purchasing, Mill Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of March, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its applications.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of -0.1036¢/KWH, an adjustment of

0.0428 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after June 2, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 206

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application of Duke Power Company<br>for Authority to Adjust its Electric<br>Rates and Charges Pursuant to<br>G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, June 21, 1976, at 2:00 P.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, Commissioners Barbara A. Simpson, W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Intervenors:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 28, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of

electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of 0.1338 cents which is an increase of 0.0910¢/KWH from the 0.0428¢/KWH adjustment approved on May 27, 1976.

On June 1, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of Mr. W. R. Stimart, Treasurer, testifying as to the computation of the fuel adjustment factor and Mr. R. H. Hall, Jr., Assistant Manager - Fuels Purchasing, Mill Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of April, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of 0.0428¢/KWH, an adjustment of 0.1338 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after July 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 207

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application by Duke Power Company for Authority<br>to Adjust and Decrease its Electric Rates and<br>Charges Pursuant to G.S. 62-134(e) | ) ORDER<br>) APPROVING<br>) DECREASE |

BY THE COMMISSION: On June 29, 1976 Duke Power Company (DUKE) filed an application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.0220 cents for each

kilowatthour sold under its filed rate schedules on bills rendered on and after August 2, 1976.

The application of Duke sought approval of a 0.1118¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.1338¢/KWH adjustment previously approved by the Commission effective for the billing month of July, 1976. The 0.220¢/KWH decrease is based solely on the decreased cost of fuel used in the generation of electric power during the month of May, 1976.

With the application, the Company filed the affidavit testimonies of R. H. Hall, Jr., Assistant Manager - Fuel Purchasing, Mill-Power Supply Company and W. R. Stimart, Treasurer of Duke Power Company. Mr. Hall's testimony detailed Duke's fossil fuel purchasing practices during the month of May, 1976. Mr. Stimart's testimony concerned the calculation of the 0.1118¢/KWH factor.

After careful consideration and scrutiny of the affidavits filed by Duke Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke of 0.1118¢/KWH in lieu of the previously approved 0.1338¢/KWH is correct and appropriate.

IT IS, THEREFORE, ORDERED That Duke Power Company make an adjustment, based solely on the decreased cost of fuels, to its North Carolina retail electric rates of 0.1118¢/KWH in lieu of the previously approved adjustment of 0.1338¢/KWH, to become effective on bills rendered on and after August 2, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 207

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| Application by Duke Power Company for Authority to Adjust and Decrease its Electric Rates and Charges Pursuant to G. S. 62-134(e) | ) ORDER CORRECTING ) ERROR |

BY THE COMMISSION: In the ORDER APPROVING DECREASE, issued in this docket on July 6, 1976, there is a typographical error in the second sentence of the second paragraph. The figure "0.220¢/KWH" appearing in this sentence should be changed to "0.0220¢/KWH".

IT IS, THEREFORE, ORDERED That the figure "0.220¢/KWH" appearing in the above mentioned location shall be changed to "0.0220¢/KWH".

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 208

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application by Duke Power Company for Authority<br>to Adjust and Decrease its Electric Rates and<br>Charges Pursuant to G.S. 62-134(e) | ) ORDER<br>) APPROVING<br>) DECREASE |

BY THE COMMISSION: On July 26, 1976 Duke Power Company (DUKE) filed an application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.1620 cents for each kilowatthour sold under its filed rate schedules on bills rendered on and after September 1, 1976.

The application of Duke sought approval of a -0.0502¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.1118¢/KWH adjustment previously approved by the Commission effective for the billing month of August, 1976. The 0.1620¢/KWH decrease is based solely on the decreased cost of fuel used in the generation of electric power during the month of June, 1976.

With the application, the Company filed the affidavit testimonies of R. H. Hall, Jr., Assistant Manager - Fuel Purchasing, Mill-Power Supply Company and W. R. Stimart, Treasurer of Duke Power Company. Mr. Hall's testimony detailed Duke's fossil fuel purchasing practices during the month of June, 1976. Mr. Stimart's testimony concerned the calculation of the -0.0502¢/KWH factor.

After careful consideration and scrutiny of the affidavits filed by Duke Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke of -0.0502¢/KWH in lieu of the previously approved 0.1118¢/KWH is correct and appropriate.

IT IS, THEREFORE, ORDERED:

1. That Duke Power Company make an adjustment, based solely on the decreased cost of fuels, to its North Carolina retail electric rates of -0.0502¢/KWH in lieu of the

previously approved adjustment of 0.1118¢/KWH, to become effective on bills rendered on and after September 1, 1976.

2. That Duke Power Company include as an exhibit on all future applications pursuant to N.C.G.S. 62-134(e) and Commission Rule R1-36 a tabulation of its actual burned fuel expense, as defined in the recommended formula for rate increases based solely on the cost of fuel, and the total revenues collected (or billed) to recover fuel expense by the fuel cost component of the basic rates and the adjustments to the basic rates approved in G.S. 62-134(e) proceedings for each month of the twelve month period ending with the cost month on which the new application is based.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of August, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 210

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application of Duke Power Company for<br>Authority to Adjust its Electric<br>Rates and Charges Pursuant to<br>G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, September 20, 1976, at 2:00 P.M.

BEFORE: J. Ward Purrington, Presiding; Commissioners Barbara A. Simpson, Ben E. Roney

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney At Law, Duke Power Company, Post Office Box 2178, Charlotte, North Carolina 28242

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 26, 1976, Duke Power Company ("Duke") filed an Application for authority to adjust and

increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of 0.0928 cents which is an increase of 0.1430¢/KWH from the negative 0.0502¢/KWH adjustment approved on August 3, 1976.

On August 31, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of William R. Stimart, Treasurer, testifying as to the computation of the fuel adjustment factor and W. T. Robertson, Jr., Vice President, Fuel Purchases of Mill-Power Supply Company, testifying as to the changes in the cost of fuel used in the generation of electric power during the month of July, 1976.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for decreased fuel costs to Duke Power Company's basic rates of a negative 0.0502¢/KWH, an adjustment of 0.0928 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after October 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of September 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 212

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application by Duke Power Company for Authority<br>to Adjust and Decrease its Electric Rates and<br>Charges Pursuant to G.S. 62-134(e) | ) ORDER<br>) APPROVING<br>) DECREASE |

BY THE COMMISSION: On September 29, 1976 Duke Power Company (DUKE) filed an application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.1564 cents for each kilowatthour sold under its filed rate schedules on bills rendered on and after November 1, 1976.

The application of Duke sought approval of a negative 0.0636¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.0928¢/KWH adjustment previously approved by the Commission effective for the billing month of October, 1976. The 0.1564¢/KWH decrease is based solely on the decreased cost of fuel used in the generation of electric power during the month of August 1976.

With the application, the Company filed the affidavit testimonies of R. H. Hall, Jr., Assistant Manager - Fuel Purchasing, Mill-Power Supply Company and W. R. Stimart, Treasurer of Duke Power Company. Mr. Hall's testimony detailed Duke's fossil fuel purchasing practices during the month of August, 1976. Mr. Stimart's testimony concerned the calculation of the -0.0636¢/KWH factor.

After careful consideration and scrutiny of the affidavits filed by Duke Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke of -0.0636¢/KWH in lieu of the previously approved 0.0928¢/KWH is correct and appropriate.

IT IS, THEREFORE, ORDERED That Duke Power Company make an adjustment, based solely on the decreased cost of fuels, to its North Carolina retail electric rates of -0.0636¢/KWH in lieu of the previously approved adjustment of 0.0928¢/KWH, to become effective on bills rendered on and after November 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 215

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Duke Power Company for<br>Authority to Adjust its Electric<br>Rates and Charges Pursuant to<br>G. S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G. S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, December 20, 1976, at 2:00 P.M.

BEFORE: W. Scott Harvey, Presiding; Barbara A. Simpson and W. Lester Teal, Jr., Commissioners

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr.
Attorney at Law
Duke Power Company
Post Office Box 2178
Charlotte, North Carolina 28242

For the Intervenors:

Jerry B. Fruitt
Associate Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Theodore C. Brown, Jr.
Assistant Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On November 26, 1976, Duke Power Company ("Duke") filed an application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G. S. 62-134(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of .0356 cents which is an increase of .1163¢/KWH from the negative .0807¢/KWH adjustment approved on November 5, 1976.

On November 29, 1976, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced at the scheduled time and place. Duke offered the testimony of W.R. Stimart, Controller, testifying as to the computation of the fuel adjustment factor and R. H. Hall, Jr., Manager - Fuel Purchases of Mill Power Supply, during the month of October, 1977.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, detailing the Staff's review of the evidence presented by Duke in support of its application.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Duke is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rates of a negative 0.0807¢/KWH, an adjustment of .0356 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after January 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-34, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of New River Light and Power ) ORDER APPROVING
Company for Authority to Adjust its Rates ) INCREASES IN
and Charges ) RATES

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Tuesday, February 17, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; and Commissioners George T. Clark, Jr., and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

John H. Bingham, Bingham and Deal, Attorneys and Counsellors at Law, Post Office Box 375, Boone, North Carolina 28607

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, North Carolina Utilities Commission, Ruffin Building, Raleigh, North Carolina 27602

No Protestants.

BY THE COMMISSION: On September 29, 1975, New River Light and Power Company, a subsidiary of Appalachian State University, Boone, North Carolina, filed an Application with the Commission for authority to increase its retail electric rates to its customers in the Boone area. The proposed increase would take the form of an across-the-board charge of 3.5% on the Company's retail rate schedules. The proposed increase would produce approximately $69,004 in additional revenues.

The Commission, being of the opinion that the proposed increase in New River's rates would affect the public interest, issued an Order on October 20, 1975, suspending the proposed increase, declaring the matter a general rate proceeding, and setting the Application for hearing on Tuesday, February 17, 1976. The test year for the proceeding was the 12 months ending December 31, 1974. The Applicant New River was required to give notice to the customers of the Company and to the public.

The matter came on for hearing as scheduled on February 17, 1976. The Company presented the testimony of Ned R. Trivette, Vice-Chancellor for Business Affairs, Appalachian State University; J. Carroll Brookshire, Director of Audits and Systems, Appalachian State University; Donald R. Austin, Administrative Officer, New River Light and Power Company; Grant Ayers, Director of Utility Services, Appalachian State University; and Ray D. Cohn, Vice-President of Southeastern Consulting Engineers, Inc. The Commission Staff presented the testimony of Dale A. Beaver, Staff Accountant, and J. Reed Bumgarner, Distribution Engineer. There were no protestants or intervenors in this proceeding.

Based on the evidence and testimony presented at the hearing and the official file in this docket, the Commission makes the following

FINDINGS OF FACT

(1) New River Light and Power Company, a subsidiary of Appalachian State University, Boone, North Carolina, engages

in the distribution and sale of electricity to its customers in the Boone, North Carolina, area, and is subject to the jurisdiction of the North Carolina Utilities Commission with respect to the rates charged and the services rendered to its retail customers of electricity.

(2) The test period for purposes of this proceeding is the 12 months ended December 31, 1974.

(3) The reasonable original cost of New River's plant used and useful in providing retail electric service is $2,941,501; the reasonable accumulated provision for depreciation is $584,701; and the reasonable original cost less depreciation is $2,356,800.

(4) The reasonable replacement cost of New River's plant used and useful in providing retail electric service is $2,802,742.

(5) The fair value of New River's electric plant used and useful in providing retail electric service should be derived from giving two-thirds (2/3) weighting to the original cost of New River's depreciated electric plant in service and one-third (1/3) weighting to the replacement cost of New River's electric plant. By this method, using the depreciated original cost of $2,356,800 and a depreciated replacement cost of $2,802,742, the Commission finds that the fair value of said electric plant devoted to retail service is $2,505,447. The resulting fair value increment is $148,647.

(6) The reasonable allowance for working capital is $149,983.

(7) New River has accumulated capital credits in the amount of $838,542 with Blue Ridge Electric Membership Corporation.

(8) The fair value of New River's plant in service used and useful in providing retail electric service at the end of the test year of $2,505,447 and a reasonable allowance for working capital of $149,983 and capital credits of $838,542 yields the reasonable fair value of New River's property in service of $3,493,972.

(9) New River's gross revenues for the test year after accounting and pro forma adjustments under the present rates are $2,256,050 and, under the Company's proposed rates, would have been $2,325,054 before annualization to year-end revenues.

(10) The level of test year operating expenses after accounting and pro forma adjustments including interest on customer deposits is $1,974,055, which includes an amount of $88,469 for actual investment currently consumed through reasonable actual depreciation adjusted to year-end level before annualization.

(11) An annualization factor of 1.85% is the proper factor to use for the purpose of bringing net operating income ($281,995 under present rates; $350,999 under proposed rates) up to an end-of-period level.

(12) The capital structure of New River at December 31, 1974, is as follows:

| | |
|---|---|
| Long-term debt | 5.65% |
| Common equity | 94.35% |
| Total | 100.00% |

(13) The Company's original cost equity ratio is 94.35% and its fair value equity ratio is 94.59%.

(14) The proper embedded cost rate for long-term debt is 5.50% and the fair rate of return which should be applied to the Company's fair value equity, including both the book equity and the fair value increment, is 10.46%. This yields a rate of return on the Company's fair value investment of 10.20%, which is reasonable and fair.

(15) New River must be allowed an increase in annual local service revenues of $69,004, in order for it to have the opportunity through prudent and efficient management to earn the 10.20% rate of return on the fair value of its property in service. This increased revenue requirement is based upon the fair value of the property, reasonable test year operating expenses, and revenues as previously determined.

(16) New River sold utility property during the test year at a loss of $2,514.53 which was charged to Account #186, Miscellaneous Deferred Debits. This loss is to be amortized to Account #414, Gains (Losses) from Disposition of Utility Property at the rate of 10.52% per year beginning with the test year.

(17) New River made adjustments to inventory during the calendar year 1972 which resulted in miscellaneous deferred credits of $31,218.33 which should be written off as follows:

| | | | |
|---|---|---|---|
| 253 | Miscellaneous Deferred Credits | $31,218.33 | |
| 439 | Adjustments to Retained Earnings | | $31,218.33 |

(18) Since New River has a larger proportion of transient customers than other utilities in the State, the Company should be allowed an exception to the Commission's recent Rules on customer disconnection. The plan proposed by the Company is fair and reasonable: All customers who establish their credit by payment of a deposit shall be subject to a 61-day disconnect schedule.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This finding is jurisdictional and is based on the Company's Application and the records of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

The use of the test year 1974 was sufficient and adequate to reflect the proper operating conditions of the Company.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The Commission finds and concludes that the Company's figure of $2,941,501 as the original cost of the Company's electric plant is reasonable. The Staff accepted the Company's accumulated provision for depreciation of $576,111 and added to it an end-of-period adjustment of $8,590. The resulting accumulated depreciation of $584,701 is reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The Company's evidence on depreciated replacement cost of $2,802,742 was uncontradicted. The Company's original cost figures were trended to depreciated replacement value by the use of the generally accepted Handy-Whitman Index of Public Utility Construction Cost. The Commission finds and concludes that the reasonable depreciated replacement cost of New River's plant in service is $2,802,742.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

G. S. 62-133 requires the Commission to find the fair value of the Company's property used and useful in providing electric service, considering the depreciated original cost and the depreciated replacement cost. Replacement cost may be determined by trending original cost to its current cost levels. The Company used this method. The Commission is not required, however, to accept replacement cost as fair value. Replacement cost represents a brick-by-brick replacement cost of the Company's plant, including plant that is obsolete and inefficient. Replacement cost gives no consideration to the cost of a modern replacement plant and the efficiencies of operation that might be obtained therefrom. The Commission finds and concludes that, in determining fair value, the replacement cost of $2,802,742 should be given a one-third (1/3) weighting and the original cost of $2,356,800 a two-thirds (2/3) weighting. The Commission finds and concludes that the resulting fair value plant of $2,505,447 is the fair value of New River's plant used and useful in providing retail service to its customers.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Staff Witness Beaver testified that the working capital allowance, computed by the formula method and including 1974 capital credits ($60,237) as an addition, should be $210,220. The Commission finds and concludes that the formula method of computing the working capital allowance is proper. The Commission is of the opinion that capital credits do not represent a current asset and, therefore, are not properly included in the working capital allowance. Accordingly, the Commission adopts a working capital allowance of $149,983.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Staff Witness Beaver testified that capital credits represent amounts paid Blue Ridge Electric Membership Corporation by New River Light and Power Company in excess of operating costs and expenses incurred by Blue Ridge in providing purchased power to New River. Mr. Beaver further testified that New River's investments in Blue Ridge, in the form of capital credits, are essential to the Company's utility operations and that the Company should be allowed an opportunity to earn a fair rate of return on these investments. The Company agrees with the preceding basic assumptions concerning capital credits paid by New River to Blue Ridge. The Commission finds and concludes that accumulated capital credits of $838,542, representing New River's investments in Blue Ridge, are properly includable in the Company's original cost net investment and fair value rate base.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission finds and concludes that the fair value of New River's property used and useful in providing electric retail service is $3,493,972. This figure is arrived at by adding the fair value plant of $2,505,447, the working capital allowance of $149,983, and the accumulated capital credits of $838,542.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

G. S. 62-133 (b) (2) requires the Commission, in fixing rates, to determine New River's revenues under the present and the proposed rates. Staff and Company witnesses agreed that the Company's operating revenues for the test year were $2,256,050. The Commission finds and concludes that $2,256,050 is the Company's revenues under the present rates. The Company proposed to increase its revenues by $69,004. Consequently, the revenues under the Company's proposed rates would be $2,325,054.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The Company testified that its test year operating expenses were $2,034,392 (New River Application, Exhibit M,

Sheet 1 of 2). Staff Witness Beaver increased these expenses by $6,953 to reflect depreciation expense based on end-of-period plant in service. Mr. Beaver then decreased these expenses by deducting (a) $60,237 to exclude 1974 capital credits as a cost of purchased power and (b) $7,053 to exclude interest on long-term debt as an operating expense. The Commission finds and concludes that the Company's reasonable operating expenses for the test year were $1,974,055.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Staff Witness Beaver recommended an annualization factor of .0185 to present the Company's operating results on an end-of-period level. This annualization factor was obtained by dividing the increase in end-of-period electrical services by the average number of services for the test year. There being no evidence to the contrary, the Commission finds and concludes that the annualization factor of .0185, as thus calculated, is proper.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 THROUGH 15

As the record reveals no basic differences between Company and Commission Staff concerning the dollar amounts of debt and equity capital in the capital structure, the Commission herein adopts the following capitalization:

NEW RIVER LIGHT AND POWER COMPANY
Twelve Months Ended December 31, 1974

| Capitalization | Amount | Ratio % | Embedded Cost % |
|---|---|---|---|
| Long-term debt | $ 140,000 | 5.65 | 5.50 |
| Common equity | 2,336,349 | 94.35 | - |
| | $2,476,349 | 100.00 | |

The embedded cost rate that the Commission concludes is just and reasonable for long-term debt is that testified to by Staff Witness Beaver.

Pursuant to the requirements of G.S. 62-133, the Commission finds and concludes that a rate of return of 10.46% on fair value equity, including both book equity and the fair value increment, is fair and reasonable. This amount will yield the dollars requested by the Company in its Application.

The Commission concludes that the rates herein allowed should be sufficient to enable the Company to attract sufficient debt capital from the market to discharge its obligations and to achieve and maintain a high level of service to the public. The Commission cannot, of course, guarantee that the Company will, in fact, earn the rates of

return herein allowed, but the Commission concludes that the Company will be able to reach that level of returns through efficient management.

The following charts summarize the gross revenues and the rates of return which the Company should be able to achieve based upon the increases approved herein. Such charts incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

New River Light and Power Company
STATEMENT OF RETURN
Twelve Months Ended December 31, 1974

| | Present Rates | Proposed Increase | Requested Rates |
|---|---|---|---|
| Operating Revenues | | | |
| Net Operating Revenues | $2,256,050 | $ 69,004 | $2,325,054 |
| Operating Expenses | | | |
| Purchased Power | 1,629,048 | | 1,629,048 |
| Operating and maintenance | 253,033 | | 253,033 |
| Depreciation | 88,469 | | 88,469 |
| Miscellaneous | 3,505 | | 3,505 |
| Total Operating Expenses | 1,974,055 | | 1,974,055 |
| Net Operating Revenues | 281,995 | 69,004 | 350,999 |
| Add: Annualization Adjustment - 1.85% | 5,217 | | 5,217 |
| Net Operating Income for Return | $ 287,212 | $ 69,004 | $ 356,216 |
| Original Cost Net Investment | | | |
| Electric Plant in Service | $2,941,501 | | $2,941,501 |
| Less: Accumulated Depreciation | 584,701 | | 584,701 |
| Net Electric Plant | 2,356,800 | | 2,356,800 |
| Allowance For Working Capital | | | |
| Materials and Supplies | 155,780 | | 155,780 |
| Cash Allowance | 32,913 | | 32,913 |
| Less: Customer Deposits | 38,710 | | 38,710 |
| Total Working Capital Allowance | 149,983 | | 149,983 |
| Accrued Capital Credits | | | |
| Investment - Blue Ridge Electric Membership Corporation | 838,542 | | 838,542 |
| Total Original Cost Net Investment | $3,345,325 | | $3,345,325 |
| Fair Value Rate Base | $3,493,972 | | $3,493,972 |
| Return on Fair Value Rate Base | 8.22% | | 10.20% |

New River Light and Power Company
RETURN ON FAIR VALUE COMMON EQUITY
Twelve Months Ended December 31, 1974

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Equity - % | Net Operating Income for Return |
|---|---|---|---|---|
| Capitalization | Present Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 189,011 | 5.41 | 5.50 | $ 10,396 |
| Fair Value Common Equity | 3,304,961 1/ | 94.59 | 8.38 | 276,816 |
| | $3,493,972 | 100.00 | - | $287,212 |
| | Approved Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 189,011 | 5.41 | 5.50 | $ 10,396 |
| Fair Value Common Equity | 3,304,961 1/ | 94.59 | 10.46 | 345,820 |
| | $3,493,972 | 100.00 | - | $356,216 |

1/ Book Common Equity $3,156,314
Fair Value Increment 148,647
$3,304,961

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Commission finds and concludes that New River's treatment of the loss on disposition of utility property sold during the test year is in accordance with the treatment prescribed by the Uniform System of Accounts for Class A and B Electric Utilities as adopted by this Commission. Accordingly, the Commission approves such accounting treatment.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The Commission finds and concludes that it is proper that New River write off miscellaneous deferred credits of $31,218.33 resulting from inventory adjustments made during the calendar year 1972 as follows:

253 Miscellaneous Deferred Credits $31,218.33
439 Adjustments to Retained Earnings $31,218.33

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The Staff and the Company offered testimony on the problems posed by the Company's large number of transient customers, most of whom are university students. The Commission finds and concludes that the proposal of Company Witness Austin is fair and reasonable and should alleviate the problems resulting from those customers who fail to pay their bills. Mr. Austin's proposal is that all customers who are required to establish credit by payment of a deposit shall be subject to a 61-day disconnect schedule. This proposal is a reasonable exception to the Commission's customer disconnection rules. The Company will be required to submit a revised disconnect schedule embodying the 61-day proposal. The Company will also be asked to submit a proposed Notice to its customers setting forth the 61-day disconnect schedule.

IT IS, THEREFORE, ORDERED:

(1) That New River Light and Power Company be, and the same is hereby, authorized to increase its rates and charges by an across-the-board increase of 3.5% on its basic retail rates and charges, such increase to be designed to produce additional annual revenues not to exceed $69,004, effective immediately.

(2) That New River shall file with the Commission a revised disconnect procedure whereby those customers who establish their credit by payment of a deposit shall be subject to a 61-day disconnect schedule. The Company shall also submit for Commission approval a proposed Notice to its customers of the 61-day disconnect schedule for those customers who establish credit by deposit.

(3) That the Notice attached to this Order as Appendix A be mailed to all customers of New River in the next bill.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
DOCKET NO. E-34, SUB 110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of New River Light<br>and Power Company for<br>Authority to Adjust its Rates<br>and Charges | ) | NOTICE TO<br>CUSTOMERS |

Upon the Application of New River Light and Power Company in Docket No. E-34, Sub 110, the North Carolina Utilities Commission has approved a rate increase of 3.5% on the Company's rates and charges to its customers. This increase is effective March 4, 1976.

The Commission has also approved a revision in the Company's customer disconnect procedure: Those customers who are required to establish their credit by payment of a deposit shall be subject to a 61-day customer disconnect schedule. The Commission has ordered the Company to submit a proposed 61-day disconnection schedule. Upon approval of this schedule by the Commission, the Company will be required to furnish Notice to all of its customers of the revised 61-day disconnect schedule.

Issued this the 4th day of March, 1976.

New River Light and Power Company

DOCKET NO. E-22, SUB 170
DOCKET NO. E-22, SUB 165
DOCKET NO. E-22, SUB 161

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of Virginia Electric and Power<br>Company for Authority to Adjust and Increase<br>Its Electric Rates and Charges | ) | ORDER<br>CLOSING<br>DOCKET |

BY THE COMMISSION: Upon consideration of the record in these dockets, and the Order of November 20, 1975, granting Intervenor, Abbott Laboratories, an enlargement of time to file appeal in this docket up to and including December 15, 1975, and upon further consideration that no appeal has been filed within the time set forth in the Order of November 20, 1975, the Commission is of the opinion that an Order should issue closing the above-captioned dockets.

IT IS, THEREFORE, ORDERED that the above-captioned dockets be, and the same hereby are, closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 186

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ) ) | ORDER APPROVING DECREASE |

BY THE COMMISSION: On December 30, 1975, Virginia Electric and Power Company (VEPCO) filed an Application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.145 cents for each kilowatthour sold under its filed rate schedule beginning with the billing month of February 1976.

The Application of VEPCO sought approval of a negative 0.028¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.117¢/KWH adjustment previously approved by the Commission effective for the billing month of January 1976. The 0.028¢/KWH decrease, as shown on Fuel Charge Rider-G, is based solely on the decreased cost of fuel used in the generation of electric power during the month of November 1975.

With the application the Company filed the affidavits of B. D. Johnson, Executive Manager-Accounting and Control, R. N. Fricke, Manager of Fossil Fuel Services, and D. R. Hostetler, Manager of Nuclear Fuel Services. Mr. Johnson offered information as to the determination of the -0.028¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of November 1975. Mr. Hostetler discussed the factors influencing nuclear fuel costs.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-G, decreasing by 0.028¢ the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the

billing month of February 1976, in lieu of the previously approved adjustment of 0.117¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 189

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Virginia Electric and Power Company for Authority to Adjust its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, February 23, 1976

BEFORE: Commissioner George T. Clark, Jr., Presiding; Commissioners Ben E. Roney, and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Allen C. Barringer, Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212

William G. Ross, Jr., Broughton, Broughton, McConnell & Boxley, P.O. Box 2387, Raleigh, North Carolina 27602

For the Intervenors:

Jesse C. Brake, Associate Attorney General, North Carolina Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

Paul L. Lassiter, Associate Commission Attorney, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 29, 1976, Virginia Electric and Power Company (hereinafter referred to as "VEPCO") filed an application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(a). VEPCO requested approval of Fuel Charge Rider-H, which would adjust the charge for each kilowatt-hour by the addition of 0.267 cents which is an increase of 0.295¢/KWH from the negative 0.028¢/KWH adjustment contained in Fuel Charge Rider-G approved on January 13, 1976.

On February 3, 1976, the Commission issued an Order setting hearing on the application and requiring public notice.

The hearing was commenced on February 23, 1976 in the Commission Hearing Room. VEPCO offered the testimony of B. D. Johnson, Executive Manager - Accounting and Control of VEPCO, testifying as to the computation of the fossil fuel adjustment factor and R. N. Fricke, Manager of Fossil Fuel Services of VEPCO, testifying as to the changes in the cost of fuel used in the generation of electric power.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., testifying on the Staff's review of the evidence presented by VEPCO in support of Fuel Charge Rider-H.

After careful consideration and scrutiny of the evidence and testimony offered by both Virginia Electric and Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider-H, proposed by VEPCO is correct and appropriate.

IT IS, THEREFORE, ORDERED That, in lieu of the previously approved adjustment for increased fuel costs to VEPCO's basic rates of -0.028¢/KWH, Fuel Charge Rider-H, which adjusts VEPCO's basic rates by an increase of 0.267 cents for each kilowatt-hour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the billing month of March, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 193

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of Virginia<br>Electric and Power Company<br>for Change in Rates Based<br>on Cost of Fuel | ) | ORDER APPROVING REDUCTION<br>IN RATES AND CHARGES<br>PURSUANT TO G.S. 62-134(e) |

BY THE COMMISSION: On February 26, 1976, the Commission issued an Order in Docket No. E-22, Sub 189, approving Fuel Charge Rider-H as an adjustment to the basic retail electric rates of Virginia Electric and Power Company (VEPCO) in the amount of 0.267¢ per kilowatt hour based solely on increased fuel cost pursuant to North Carolina G.S. 62-134(e). Commission Rule R1-36 requires VEPCO and the other electric utilities to immediately file for a downward adjustment to reflect any decrease in the cost of fossil fuel below the level existing in the basic rates.

On February 27, 1976, Virginia Electric and Power Company filed an application to reduce the fuel charge addition to the basic rates from 0.267¢/KWH to 0.032¢/KWH based on generation and fuel statistics for the month of January 1976. The proposed reduction would become effective beginning with the billing month of April.

With the application, the Company filed the affidavits of B. D. Johnson, Executive Manager-Accounting and Control of VEPCO, and R. N. Fricke, Manager of Fossil Fuel Services of VEPCO. Mr. Johnson offered information as to the determination of the 0.032¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of January 1976.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That in lieu of the previously approved fuel charge adjustment of 0.267¢ per kilowatt hour, an adjustment of 0.032¢ per kilowatt hour as shown on Fuel Charge Rider-I, to reflect the cost of fuel for the month of January 1976, is approved effective beginning with the billing month of April, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 194

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Virginia Electric and Power ) ORDER
Company for Authority to Adjust Its Electric ) APPROVING
Rates and Charges Pursuant to G.S. 62-134(e) ) DECREASE

BY THE COMMISSION: On March 31, 1976, Virginia Electric and Power Company (VEPCO) filed an Application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.191 cents for each kilowatthour sold under its filed rate schedule beginning with the billing month of May 1976.

The Application of VEPCO sought approval of a negative 0.159¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.032¢/KWH adjustment previously approved by the Commission effective for the billing month of April 1976. The 0.159¢/KWH decrease, as shown on Fuel Charge Rider-J, is based solely on the decreased cost of fuel used in the generation of electric power during the month of February, 1976.

With the application the Company filed the affidavits of B. D. Johnson, Executive Manager-Accounting and Control, and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Johnson offered information as to the determination of the negative 0.159¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of February.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-J, decreasing by 0.159¢ the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the billing month of May 1976, in lieu of the previously approved adjustment of 0.032¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 196

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Virginia Electric and Power Company for Authority to Adjust its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN RATES<br>) AND CHARGES PURSUANT<br>) TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, May 17, 1976

BEFORE: Commissioner George T. Clark, Jr., Presiding, Commissioners W. Lester Teal, Jr., Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

Edward Roach
Allen C. Barringer
Hunton, Williams, Gay and Gibson
Post Office Box 1535
Richmond, Virginia 23212

William G. Ross, Jr.
Broughton, Broughton, McConnell & Boxley
Post Office Box 2387
Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt
Associate Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Dwight Allen
Assistant Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On April 30, 1976, Virginia Electric and Power Company (hereinafter referred to as "VEPCO") filed an application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). VEPCO requested approval of Fuel Charge Rider-K, which would adjust the charge for each kilowatt-hour by the addition of 0.011 cents which is

an increase of 0.170¢/KWH from the negative 0.159¢/KWH adjustment contained in Fuel Charge Rider-J approved on April 5, 1976.

On May 3, 1976, the Commission issued an Order setting hearing on the application and requiring public notice.

The hearing was commenced on May 17, 1976, in the Commission Hearing Room. VEPCO offered the testimony of B. D. Johnson, Executive Manager - Accounting and Control of VEPCO, testifying as to the computation of the fossil fuel adjustment factor and R. N. Fricke, Manager of Fossil Fuel Services of VEPCO, testifying as to the changes in the cost of fuel used in the generation of electric power.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., testifying on the Staff's review of the evidence presented by VEPCO in support of Fuel Charge Rider-K.

After careful consideration and scrutiny of the evidence and testimony offered by both Virginia Electric and Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider-K, proposed by VEPCO is correct and appropriate.

IT IS, THEREFORE, ORDERED That, in lieu of the previously approved adjustment for increased fuel costs to VEPCO's basic rates of -0.159¢/KWH, Fuel Charge Rider-K, which adjusts VEPCO's basic rates by an increase of 0.011 cents for each kilowatt-hour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the billing month of June, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 197

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application by Virginia Electric and Power<br>Company for Authority to Adjust Its Electric<br>Rates and Charges Pursuant to G.S. 62-134(e) | ) | ORDER<br>APPROVING<br>DECREASE |

BY THE COMMISSION: On May 28, 1976, Virginia Electric and Power Company (VEPCO) filed an Application with the

Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.106 cents for each kilowatthour sold under its filed rate schedule beginning with the billing month of July, 1976.

The Application of VEPCO sought approval of a negative 0.095¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.011¢/KWH adjustment previously approved by the Commission effective for the billing month of June 1976. The 0.095¢/KWH decrease, as shown on Fuel Charge Rider-L, is based solely on the decreased cost of fuel used in the generation of electric power during the month of April, 1976.

With the Application the Company filed the affidavits of B. D. Johnson, Executive Manager-Accounting and Control, and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Johnson offered information as to the determination of the negative 0.095¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of April.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-L, decreasing by 0.095¢ the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the billing month of July, 1976, in lieu of the previously approved adjustment of 0.011¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 198

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 Pursuant to G.S. 62-134(e) | ) ORDER APPROVING ADJUSTMENT IN RATES AND CHARGES PURSUANT TO G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, July 19, 1976

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; Commissioners Barbara A. Simpson, W. Scott Harvey

APPEARANCES:

For the Applicant:

Edgar M. Roach, Jr.
Hunton & Williams
Post Office Box 1535
Richmond, Virginia 23212

William G. Ross, Jr.
Broughton, Broughton, McConnell & Boxley, P.A.
Post Office Box 2387
Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt
Associate Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina
For: Using and Consuming Public

For the Commission Staff:

Dwight Allen
Assistant Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On June 30, 1976, Virginia Electric and Power Company (hereinafter referred to as "VEPCO") filed an application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). VEPCO requested approval of Fuel Charge Rider-M, which would adjust the charge for each kilowatt-hour by the addition of 0.138 cents which is an increase of 0.233¢/KWH from the -0.095¢/KWH adjustment contained in Fuel Charge Rider-L approved on June 9, 1976.

On July 6, 1976, the Commission issued an Order setting hearing on the application and requiring public notice.

The hearing was commenced on July 19, 1976 in the Commission Hearing Room. VEPCO offered the testimony of R. C. Houghton, Jr., Director of Regulatory and Statistical Services of VEPCO, testifying as to the computation of the fossil fuel adjustment factor and R. N. Fricke, Manager of Fossil Fuel Services of VEPCO, testifying as to the changes in the cost of fuel used in the generation of electric power.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., testifying on the Staff's review of the evidence presented by VEPCO in support of Fuel Charge Rider-M.

After careful consideration and scrutiny of the evidence and testimony offered by both Virginia Electric and Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider-M, proposed by VEPCO is correct and appropriate.

IT IS, THEREFORE, ORDERED:

(1) That, in lieu of the previously approved adjustment for increased fuel costs to VEPCO's basic rates of -0.095¢/KWH, Fuel Charge Rider-M, which adjusts VEPCO's basic rates by an increase of 0.138 cents for each kilowatt-hour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the billing month of August, 1976, and

(2) That Virginia Electric and Power Company include as an exhibit on all future applications pursuant to N.C.G.S. 62-134(e) and Commission Rule R1-36 a tabulation of its actual burned fuel expense, as defined in the recommended formula for rate increases based solely on the cost of fuel, and the total revenues collected (or billed) to recover fuel expense by the fuel cost component of the basic rates and the adjustments to the basic rates approved in G.S. 62-134(e) proceedings for each month of the twelve-month period ending with the cost month on which the new application is based.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 199

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ) ) | ORDER APPROVING DECREASE |

BY THE COMMISSION: On July 30, 1976, Virginia Electric and Power Company (VEPCO) filed an Application with the Commission, pursuant to G.S. 62-134(e), requesting authority

to decrease its retail electric rates and charges by 0.132 cents for each kilowatt-hour sold under its filed rate schedules beginning with the billing month of September, 1976.

The Application of VEPCO sought approval of a 0.006¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.138¢/KWH adjustment previously approved by the Commission effective for the billing month of August, 1976. The 0.006¢/KWH adjustment, as shown on Fuel Charge Rider-N, is based solely on the decreased cost of fuel used in the generation of electric power during the month of June, 1976.

With the Application the Company filed the affidavits of R. C. Houghton, Jr., Director of Regulatory and Statistical Services and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Houghton offered information as to the determination of the 0.006¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of June, 1976.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-N, increasing by 0.006¢ the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the billing month of September, 1976, in lieu of the previously approved adjustment of 0.138¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 201

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ) ) | ORDER APPROVING DECREASE |

BY THE COMMISSION: On August 31, 1976, Virginia Electric and Power Company (VEPCO) filed an Application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.068

cents for each kilowatt-hour sold under its filed rate schedule beginning with the billing month of October, 1976.

The Application of VEPCO sought approval of a negative 0.062¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.006¢/KWH adjustment previously approved by the Commission effective for the billing month of September, 1976. The 0.062¢/KWH decrease, as shown on Fuel Charge Rider-P, is based solely on the decreased cost of fuel used in the generation of electric power during the month of July, 1976.

With the Application the Company filed the affidavits of R. C. Houghton, Jr., Director of Regulatory and Statistical Services and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Houghton offered information as to the determination of the -0.062¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of July.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-P, decreasing by 0.062¢ the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the billing month of October, 1976, in lieu of the previously approved adjustment of 0.006¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of September, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. E-22, SUB 202

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ) ) | ORDER APPROVING DECREASE |

BY THE COMMISSION: On September 30, 1976, Virginia Electric and Power Company (VEPCO) filed an Application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.018 cents for each kilowatt-hour sold under its filed

rate schedule beginning with the billing month of November, 1976.

The Application of VEPCO sought approval of a negative 0.080¢/KWH adjustment to the basic retail rate schedules in lieu of the negative 0.062¢/KWH adjustment previously approved by the Commission effective for the billing month of October, 1976. The 0.018¢/KWH decrease, is based solely on the decreased cost of fuel used in the generation of electric power during the month of August, 1976.

With the Application the Company filed the affidavits of R. C. Houghton, Jr., Director of Regulatory and Statistical Services and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Houghton offered information as to the determination of the negative 0.080¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of August, 1976.

After careful consideration and scrutiny of the affidavits filed by Virginia Electric and Power Company, the Commission is of the opinion, and so concludes, that the adjustment in rates proposed by Virginia Electric and Power Company is correct and appropriate.

IT IS, THEREFORE, ORDERED That Fuel Charge Rider-Q, decreasing by 0.080¢/KWH the charge for each kilowatt-hour sold under Virginia Electric and Power Company's filed rate schedules, is approved to go into effect beginning with the billing month of November, 1976, in lieu of the previously approved adjustment of negative 0.062¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 205

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Virginia Electric and Power Company for Authority to Adjust its Electric Rates and Charges Pursuant to G.S. 62-134(e) | ) ORDER APPROVING<br>) ADJUSTMENT IN<br>) RATES AND CHARGES<br>) PURSUANT TO<br>) G.S. 62-134(e) |

HEARD IN: The Commission Hearing Room, Ruffin Building One West Morgan Street, Raleigh, North Carolina December 20, 1976 at 2:00 P.M.

BEFORE: W. Scott Harvey, Presiding; Commissioners Barbara A. Simpson and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Edgar M. Roach, Jr.
Hunton and Williams
Post Office Box 1535
Richmond, Virginia 23212

William G. Ross, Jr.
Broughton, Broughton, McConnell & Boxley
Post Office Box 2387
Raleigh, North Carolina 27602

For the Intervenors:

Jerry B. Fruitt
Associate Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina
For: Using and Consuming Public

For the Commission Staff:

Dwight W. Allen
Associate Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On November 26, 1976, Virginia Electric and Power Company (hereinafter referred to as "VEPCO") filed an application for authority to adjust and increase its retail electric rates and charges based solely upon the increased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). VEPCO requested approval of Fuel Charge Rider-S, which would adjust the charge for each kilowatt-hour by the addition of 0.262 cents which is an increase of 0.424¢/KWH from the -0.162¢/KWH adjustment contained in Fuel Charge Rider-R approved on November 8, 1976.

On November 29, 1976, the Commission issued an Order setting hearing on the application and requiring public notice.

The hearing was commenced on December 20, 1976 in the Commission Hearing Room. VEPCO offered the testimony of R. C. Houghton, Jr., Director of Regulatory and Statistical Services of VEPCO, testifying as to the computation of the fossil fuel adjustment factor and R. N. Fricke, Manager of Fossil Fuel Services of VEPCO, testifying as to the changes in the cost of fuel used in the generation of electric power.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section in the Engineering Division of the N.C.U.C., testifying on the Staff's review of the evidence presented by VEPCO in support of Fuel Charge Rider-S.

After careful consideration and scrutiny of the evidence and testimony offered by both Virginia Electric and Power Company and the Commission Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider-S, proposed by VEPCO is correct and appropriate.

IT IS, THEREFORE, ORDERED That, in lieu of the previously approved adjustment for increased fuel costs to VEPCO's basic rates of -0.162¢/KWH, Fuel Charge Rider-S, which adjusts VEPCO's basic rates by an increase of 0.262 cents for each kilowatt-hour based solely on the increased cost of fuel, is approved effective for bills rendered beginning with the billing month of January, 1977.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of December, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-35, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of Western Carolina University for an Adjustment of its Rates and Charges | ) | ORDER APPROVING INCREASES IN RATES AND CHARGES |

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina on September 30, 1975

BEFORE: Commissioner George T. Clark, Jr., Presiding and Commissioners Tenney I. Deane, Jr. and J. Ward Purrington

APPEARANCES:

For the Applicant:

William E. Scott, Jr.
Legal Counsel
Western Carolina University
Cullowhee, North Carolina

For the Commission Staff:

Robert F. Page
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991
Raleigh, North Carolina 27602

Antoinette R. Wike
Associate Commission Attorney
North Carolina Utilities Commission
P. O. Box 991 - Ruffin Building
Raleigh, North Carolina 27602

BY THE COMMISSION: On April 4, 1975, Western Carolina University (hereinafter referred to as "Western Carolina"), a state-supported institution of higher learning, located in Cullowhee, North Carolina, filed an application with the North Carolina Utilities Commission for authority to increase its electric rates and charges to its customers in the Cullowhee area, Jackson County, North Carolina.

Western Carolina is not a public utility, but it operates an electric plant and distribution system and is authorized by G.S. 116-35 to sell electricity to the community at rates approved by this Commission.

The proposed rate increase would take the form of an additional across-the-board charge of 13% on Western Carolina's single rate schedule and would, according to Western Carolina, produce approximately $31,073 in additional annual gross revenues, resulting in a rate of return on investment of approximately 7%, based on the twelve-month test period ended June 30, 1974.

The Commission, by Order dated April 29, 1975, declared this application to be a general rate case; suspended the proposed increase in rates; set the application for hearing on September 30, 1975; and ordered Western Carolina to give notice to the public of the proposed rate increase.

The Applicant prefiled exhibits containing a cost study of its electric plant in service performed by Southeastern Consulting Engineers, Inc. (hereinafter referred to as Southeastern).

The application came on for hearing as scheduled, and the Applicant offered the testimony of Mr. Ray Cohn, Vice-President of Southeastern, and Mr. William Stump of Western Carolina. Mr. Paul Thomas and Mr. Reed Bumgarner testified for the Commission Staff. There were no protests or interventions.

Based upon the application and prefiled exhibits, and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. Western Carolina University, although not a public utility, owns and operates an electric distribution system and is subject to the jurisdiction of the North Carolina Utilities Commission with respect to the rates charged and services rendered to its electric retail customers in the Cullowhee area, Jackson County, North Carolina.

2. The test period for purposes of this proceeding is the twelve months ended June 30, 1974.

3. The reasonable original cost of Western Carolina's property used and useful in providing retail electric service in North Carolina is $467,722, the reasonable accumulated provision for depreciation is $109,586, and the reasonable original cost less depreciation is $358,136.

4. The reasonable replacement cost less depreciation of Western Carolina's property used and useful in providing retail electric service in North Carolina is $552,874.

5. The fair value of Western Carolina's plant used and useful in providing retail electric service in North Carolina should be derived from giving seven-tenths (7/10) weighting to the original cost of Western Carolina's depreciated plant in service and three-tenths (3/10) weighting to the replacement cost depreciated of Western Carolina's plant. By this method, using the depreciated original cost of $358,136 and a depreciated replacement cost of $552,874, the Commission finds that the fair value of said plant devoted to retail service in North Carolina is $416,557. This fair value includes a reasonable fair value increment of $58,421.

6. The reasonable allowance for working capital is $60,085.

7. The fair value of Western Carolina's plant in service used and useful in providing retail electric service to the public within North Carolina at the end of the test year of $416,557 plus a reasonable allowance for working capital of $60,085 yields the reasonable fair value of Western Carolina's property in service to North Carolina retail customers of $476,642.

8. Western Carolina's gross operating revenues for the test year after accounting and pro forma adjustments under present rates are $239,199 and, after giving effect to the proposed rates, would have been $270,272 during the test year.

9. The level of operating expenses after accounting and pro forma adjustments, including taxes of $1,969, is $217,280 which includes an amount of $11,738 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end level.

10. The fair rate of return that Western Carolina should have the opportunity to earn on the fair value of its North Carolina investment for retail operations of approximately 11.0%, which requires additional annual revenue from North Carolina retail customers of $52,992 based upon the test year (ended June 30, 1974) level of operations. This rate of return on the fair value of Western Carolina's property also yields a rate of return on the fair value equity of 11.0%.

11. The rate schedule attached as Exhibit A is just and reasonable and is designed to produce an increase in revenues of approximately $31,073 based upon the June 30, 1974, test period.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 AND 2

The evidence for these findings is contained in the verified application, the previous records of the Commission concerning Western Carolina, the testimony of witnesses Cohn, Stump and Bumgarner, and North Carolina General Statutes 116-35. These findings are essentially jurisdictional and procedural and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3 AND 4

Western Carolina's exhibits show cost data derived from a system evaluation study performed in 1973 by Southeastern Consulting Engineers, Inc. Southeastern first made an inventory of all items in the plant accounts. The accounts were initially valued by the use of representative construction bids for the Fourth Quarter of 1972. Next, depreciation reserves were calculated for each account by applying Standard Federal Power Commission depreciation rates to each individual account, based upon average age. In order to arrive at an estimated original cost as of March 31, 1973, Southeastern used the Handy-Whitman Index to reverse trend each account from replacement cost to when it was new on-the-average.

The fifteen months investment between the valuation study and the end of the test period were reconstructed by adding plant to the original cost study. This plant was depreciated using the FPC rates. Each addition was trended, using the Handy-Whitman Index, to June 30, 1974, and added to the trended replacement cost.

Witness Cohn testified that the system valuation study was performed in connection with Western Carolina's attempt to sell the off-campus portion of its electric plant. Land and buildings were omitted from the valuation because they were not readily identifiable as being for University or resale use. Retirements also were omitted from the valuation for the 15-month period since this information was not available. Mr. Cohn testified that in his opinion these omissions cancelled each other.

The exhibits offered by Western Carolina show original cost of utility plant in service of $467,721 and a reserve for depreciation of $109,585. These exhibits also show a replacement cost of $727,628 with a depreciation reserve of $174,754.

Witness Stump testified that Western Carolina has not complied with the Order of the Commission in Docket No. E-35, Sub 3, dated July 24, 1973, to implement the Uniform System of Accounts. The University hoped eventually to sell its utility plant and to avoid having to maintain dual accounting systems until that time.

Staff Witness Thomas testified that prior to July 1, 1959, the books and records of the electrical system consisted of recorded receipts and disbursements. The University subsequently instituted new accounting records and recorded an investment in electric plant in service of $25,000 representing distribution lines. No additions were made to this account until 1960, and from 1970 to 1974 only materials used for new lines and services were recorded. No amount was added to the plant accounts to capitalize the labor used in making the additions to plant. Plant accounting for warehouse and equipment and motor vehicles was instituted only in 1967 and 1969. Thomas Exhibit 1 shows an original cost net investment of $116,838, after accounting and pro forma adjustments. The Commission concludes that Western Carolina's recorded original cost of plant in service is grossly understated, due to its failure to maintain adequate books and records.

The Commission recognizes that there are deficiencies which preclude the system valuation performed by Southeastern from serving as a completely accurate estimation of cost. As Staff Witness Bumgarner testified, it is basically a replacement cost study. The Staff, however, made no recommendations with respect to improved methodology.

The Commission concludes that cost studies performed by Southeastern represent a reasonable attempt to obtain otherwise unavailable cost data and that the original and replacement costs thereby derived are not grossly overstated. The Commission, therefore, concludes that the figures contained in Western Carolina's exhibits as the original cost net investment and depreciated replacement cost of its property used and useful in providing retail electricity to customers in North Carolina should be adopted for the purpose of setting rates in this docket.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5 AND 7

The Commission concludes upon consideration of the original cost less depreciation, the replacement cost less depreciation, the impact of weighting upon the financing capability of the Company and the economic welfare of its ratepayers, both long and short term, that the reasonable

weighting of original cost less depreciation is seven-tenths (7/10) and the reasonable weighting of the replacement cost less depreciation is three-tenths (3/10) in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. The fair value of plant thus determined is $416,557.

To the Commission's determination of a reasonable fair value of Western Carolina's plant used and useful in providing retail electric service in North Carolina must be added an allowance for working capital. The Commission concludes that the fair value of electric plant in service of $416,557 plus a reasonable allowance for working capital of $60,085 (as concluded below) yields the fair value of Western Carolina's property (or rate base) of $476,642.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The Staff proposed a computation of working capital by using a "balance sheet analysis", treating as working capital the difference between current assets and current liabilities. Western Carolina agreed with such computation, which yielded an amount of $60,085. The Commission concludes that this amount is reasonable as an allowance for working capital.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 8 AND 9

The Commission concludes that the reasonable level of operating expenses and revenues are those testified to by Staff Witness Thomas and accepted by Western Carolina. The Commission takes judicial notice of the fact that some of the administrative expenses of operating the electric plant are borne by the University and, therefore, are understated in the Company's books.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Western Carolina's electric distribution system is wholly owned by the University. It does not compete in the market for capital funds. Its capital structure contains no debt components; it is composed of 100% equity. The rate of return on fair value is identical to the return on fair value equity. Therefore, in following the statutory mandate to set a rate of return on the fair value rate base, the Commission is not concerned with separate rates of return on book equity or fair value equity.

Under existing rates Western Carolina is earning a return of approximately 4.60% on the fair value of its property. Having in mind current economic conditions and the capital requirements of Western Carolina, the Commission concludes that the existing rate of return on fair value is inadequate. The Commission further concludes that a proper rate of return cannot be fixed with mathematical precision.

The Commission takes notice the fact that Western Carolina has sought recently to divest itself of the off-campus portion of its electric distribution system. Thus, it is important to the University that the Commission fix a rate of return commensurate with the risks associated with operating the business and which will allow the University to maintain its facilities and earn a fair profit. This is also important to the customers.

Western Carolina currently does not employ personnel with distribution engineering expertise. Staff Witness Bumgarner testified that this lack of qualified management has resulted in unacceptable levels of service and inefficiencies in design and construction on portions of the University's distribution system.

The Commission therefore is of the opinion that, although Western Carolina University should not be encouraged to remain in the business of distributing electricity to retail customers, it should be permitted to earn sufficient revenues to render adequate service. If the University continues in the electric distribution business, it should be encouraged to hire a qualified consulting engineer for the purpose of directing the system's expansion and improvement.

Taking into account operating expenses, construction costs, and business risks inherent in the system, the Commission concludes that the rate of return which Western Carolina should earn on the fair value of its property used and useful in providing retail electric service to its customers in North Carolina is 11.12%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The record shows that Western Carolina University buys electric power at wholesale rates from Nantahala Power and Light Company. Since the Commission first approved rates for Western Carolina in 1960, the only increases in its rate schedule have been pass-along increases from Nantahala of 8.24% and 18.44%. The attached schedule of rates allows a 13% across-the-board increase. The Commission is of the opinion that these rates are just and reasonable and are not out of line with existing residential rates in effect in the Cullowhee area.

The Commission notes, however, that Western Carolina serves both its residential and its few commercial customers under a single rate schedule which has a declining block structure. Fundamental engineering and economic studies in the Commission's files reflect that residential and commercial classes have different usage characteristics and thus impose different operating costs on an electric system. On this basis the Commission concludes that Western Carolina's proposed rate structure, consisting of one schedule, is currently just and reasonable but is potentially discriminatory in view of future system growth

and/or rate increases. Accordingly, the Commission further concludes that, after a reasonable period for data-gathering purposes, Western Carolina should file with the Commission separate rate schedules for commercial and residential classes of customers which are based on cost-of-service principles.

FURTHER CONCLUSIONS

Mr. Thomas testified, and the company acknowledged, that the company does not maintain its books and records according to the Uniform System of Accounts prescribed by this Commission. Mr. Thomas recommended that the company be required to maintian its books and records in accordance with the Uniform System of Accounts for Class C and D Electric Utilities. Many of the differences in the accounting figures between the company and the Staff are attributable to the company's failures to keep its records in conformity with the Uniform System of Accounts. Mr. Thomas also pointed out that the company did not maintain perpetual inventory records for materials and supplies; there is either an overstatement or understatement of expenses and investment. As Mr. Thomas pointed out, this situation could be corrected if the company adopted the Uniform System of Accounts. The Commission is of the opinion, and so concludes, that the company should maintain its books in accordance with the Uniform System of Accounts for Class C and D Electric Utilities, beginning January 30, 1976.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That effective for service rendered in North Carolina beginning with the first billing cycle on or after the date of this Order, Western Carolina University is hereby allowed to place into effect the increased rates described in paragraph 2 below, which are designed to produce additional annual revenues in the amount of $31,073.

2. That the rates herein approved are those proposed by Western Carolina as set forth on Exhibit A.

3. That Western Carolina shall retain a consulting engineer with expertise in electrical distribution engineering within 60 days of the date of this Order.

4. That Western Carolina shall file with the Commission within 270 days of the date of this Order a long-range plan for system expansion and improvement prepared by the consulting engineer.

5. That Western Carolina shall immediately undertake a rate study for the purpose of designing for Commission approval separate rate schedules for its residential and commercial customers and shall notify the Commission within 60 days of the date of this Order of its timetable for completion of the rate study.

6. That Western Carolina shall take immediate steps to conform its books and records to the Uniform System of Accounts.

7. That Western Carolina shall give public notice of the rate increase approved herein by mailing a copy of the Notice attached as Exhibit B by first class mail to each of its North Carolina retail customers during the next billing cycle.

ISSUED BY ORDER OF THE COMMISSION.

This 16th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

EXHIBIT A
RETAIL RATE SCHEDULE

| | | Price Per Kilowatt Hour* | Amount |
|---|---|---|---|
| Minimum Bill | | | $1.28 |
| First | 20 KWH or less | $1.28 | 1.28 |
| Next | 30 KWH | 6.4¢ | 1.92 |
| Next | 50 KWH | 3.86¢ | 1.93 |
| Next | 100 KWH | 2.56¢ | 2.56 |
| Next | 550 KWH | 1.6¢ | 8.80 |
| All over | 750 KWH | 1.27¢ | |

* Plus 13% and a fuel cost adjustment

EXHIBIT B
DOCKET NO. E-35, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina University )
for an Adjustment of its Rates and Charges ) NOTICE

Upon Application of Western Carolina University in Docket No. E-35, Sub 4, the North Carolina Utilities Commission approved an across-the-board rate increase, effective January ____, 1976, of 13% on Western Carolina's single rate schedule. The Commission directed Western Carolina to retain a consulting engineer with expertise in electrical distribution engineering and to file with the Commission a long-range plan for system expansion and improvement by the consulting engineer. The Commission further directed Western Carolina to undertake a rate study for the purpose of designing for Commission approval separate rate schedules for its residential and commercial customers.

This the 16th day of January, 1976.

WESTERN CAROLINA UNIVERSITY

DOCKET NO. E-7, SUB 209

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| The Proposed Sale of Certain Utility Systems Under the Jurisdiction of and Operated by the University of North Carolina at Chapel Hill and Approval by the North Carolina Utilities Commission of any Acquisition Thereof by any Public Utility Under the Jurisdiction of the Commission | ) ) ) ) ) ) | ORDER APPROVING ACQUISITION OF THE OFF-CAMPUS UNIVERSITY ELECTRIC UTILITY SYSTEM BY DUKE POWER COMPANY |

BY THE COMMISSION: On August 24, 1976, a Joint Application was filed with this Commission by (1) The University of North Carolina at Chapel Hill (hereinafter referred to as U.N.C. or the University), an agency of the State of North Carolina, and (2) Duke Power Company (Duke or the Company), a public utility as defined by G.S. 62-3(23)a.1. Such Application, which was filed pursuant to Section 8 of Chapter 723 of the 1971 Session Laws of the North Carolina General Assembly, requests approval by this Commission of the sale by U.N.C. and acquisition by Duke of the Off-Campus University Electric Utility System, in accordance with the terms and conditions of an Agreement of Sale and Purchase (the Agreement) attached to said Application.

By cover letter filed with the Application and by further letter and attachments dated August 27, 1976, the Attorney representing the University, the Attorney General and, hence, the State of North Carolina, requested the Commission to expedite its ruling with regard to the proposed sale and acquisition by Duke Power Company of the property representing the off-campus electric utility system presently owned by U.N.C.

The Commission's role in this proceeding is governed by the provisions of Chapter 723 of the 1971 Session Laws of North Carolina. This Act provides a special procedure to determine whether or not the electric, water and telephone utilities serving U.N.C. and the Towns of Chapel Hill and Carrboro should be retained or sold and, if sold, a mechanism to carry out such sale. Briefly, the procedure provided by the Act is as follows:

(1) The Governor of North Carolina was directed to appoint a special Utilities Study Commission (the Special Commission) to study the feasibility or desirability of retaining, leasing, transferring or selling the utility property operated by U.N.C.

(2) The report and recommendations of the Special Commission were to be transmitted to the Board of Trustees of U.N.C.

(3) The Board of Trustees could approve, disapprove or modify any portion of the report or recommendations of the Special Commission.

(4) Upon approval of all or any part of the action recommended by the Special Commission, the Board of Trustees of U.N.C., through its Executive Committee, was empowered to proceed with the action approved. If a sale or other transfer were approved, the Special Commission was empowered to proceed with the negotiations for such sale or transfer.

(5) The Special Commission, in negotiating such sale, was directed to consider the interests of the State of North Carolina, U.N.C., the employees of the system(s) involved and the customers served by such systems.

(6) Any agreement of sale, lease, transfer or other disposition of utility system property was to be approved by the Board of Trustees of U.N.C., the Governor and the Council of State.

(7) The form of the consideration, but not the amount, was to be approved by the State Treasurer.

(8) Finally, the acquisition of such utility property by a public utility, as defined by G.S. 62-3(23), was subject to approval by this Commission, "except as to the compensation to be paid therefor."

The Special Commission was required by Chapter 723 to consult, from time to time, with this Commission concerning the ability and capacity to render proper service of each prospective purchaser of the utility properties. The Special Commission has provided this Commission heretofore with copies of the Prospectus of Sale, the bids accepted for negotiation and other data regarding the sale and acquisition proposed herein and has solicited advice from the Commission concerning prospective purchasers. The Special Commission has also kept this Commission informed about the ongoing course of the negotiations which culminated in this Application.

Based on the foregoing, the verified Application, the Commission's official files with respect to Duke Power Company (particularly Docket No. E-7, Subs 161 and 173) and other Commission files and records pertinent hereto, the Commission now makes the following

## FINDINGS OF FACT

1. That the University of North Carolina at Chapel Hill is an agency of the State of North Carolina which is appearing in this cause pursuant to authority properly granted by its Board of Trustees.

2. That Duke Power Company is a public utility as defined by Chapter 62 of the General Statutes of North

Carolina and, as such, is subject to the jurisdiction of this Commission.

3. That the Joint Applicants are lawfully before this Commission pursuant to Section 8 of Chapter 723 of the 1971 Session Laws of North Carolina, seeking approval of the acquisition by Duke Power Company of the Off-Campus University Electric System owned by U.N.C.

4. That on November 30, 1971, the Governor of North Carolina appointed a Utilities Study Commission (the Special Commission) to study the feasibility of retaining, selling or otherwise disposing of the telephone, electric, water and sewer systems owned and operated by the University of North Carolina at Chapel Hill and to make recommendations with regard thereto to the Board of Trustees of the University.

5. That on August 3, 1972, the Special Commission submitted its Final Report and Recommendations to the U.N.C. Board of Trustees. Such Report, made after extensive study and hearings, determined that the interests of all concerned would be best served by the University divesting itself of the majority of its utility holdings and recommended that the University sell all of its Off-Campus University Electric Utility System.

6. That the U.N.C. Board of Trustees approved this Report on August 11, 1972, and recommended that the Board of Governors of the University of North Carolina (See Chapter 1244 of the Session Laws of 1971) approve the Report and Recommendations submitted by the Special Commission.

7. That on September 8, 1972, the Board of Governors of the University of North Carolina (1) approved the recommendations of the Special Commission regarding divestiture, (2) resolved that no plan of conveyance should become final until approved and requested by the U.N.C. Board of Trustees and (3) authorized the U.N.C. Board of Trustees to request approval of the conveyance of such properties by the Governor and Council of State in accordance with the plan approved by said Board of Trustees and the procedures specified by Chapter 723.

8. That on August 17, 1973, the Off-Campus University Electric System was offered for public sale by Prospectus, in accordance with a bid-negotiation procedure authorized by Chapter 723.

9. That Duke Power Company, on April 16, 1974, submitted a total bid for the purchase of the Off-Campus University Electric System in the amount of $12,931,000, based on the existing system as of March 1, 1973. Such bid was to be adjusted upon the closing date according to a formula agreed to by both parties in the Joint Application.

10. That the Special Commission considered the bid of Duke Power Company, along with all other bids submitted,

using the factors which it was authorized and directed to use by Chapter 723. After having conducted full public hearings which afforded an opportunity to Duke Power Company, other bidders, members of the general public, customers and employees of the University Electric System to make known their views regarding the bids received, the Special Commission, on September 27, 1974, recommended the following actions by duly adopted resolutions:

(a) That negotiations be entered into with Duke Power Company to develop an Agreement of Sale and Purchase of the Off-Campus University Electric System; and

(b) That, upon receipt of approval by the Board of Trustees of U.N.C., negotiations and development of such Agreement be undertaken by a Contract Negotiating Sub-Committee created by special resolution of the Special Commission on September 27, 1974.

11. That the U.N.C. Board of Trustees, on October 11, 1974, specifically adopted and concurred in the recommendations made by the Special Commission on September 27, 1974.

12. That following negotiations between the Special Commission (acting in consultation with University officials and through the Contract Negotiating Sub-Committee) and Duke Power Company, the Special Commission (a) determined that the sale of the Off-Campus University Electric System in accordance with the Agreement of Sale and Purchase with Duke would be in the best interest of the State, the University, the employees and the customers; (b) approved the conveyance in accordance with the Agreement of Sale; and (c) submitted the Agreement to the U.N.C. Board of Trustees for approval on September 11, 1975.

13. That the U.N.C. Board of Trustees, on June 11, 1976, approved the sale of the Off-Campus Electric System and properties to Duke Power Company in accordance with the terms and conditions of the Agreement of Sale and Purchase, requested the Governor and Council of State to approve such acquisition and requested that the Agreement and all conveyances and instruments pursuant thereto be executed and consummated.

14. That the Board of Directors of Duke Power Company, through its Executive Committee, approved the Company's bid proposed acquisition of the Off-Campus Electric System in accordance with the terms and conditions of the Agreement of Sale on August 25, 1976. The officers of the Company were authorized to execute said Agreement in the name of the Company and to join U.N.C. in the submission of the present Application to this Commission.

15. That in a meeting held on August 9, 1976, the Governor and Council of State duly approved the conveyance of the Off-Campus Electric Utility System in accordance with

the terms and conditions of the Agreement of Sale and authorized the execution of the Agreement and all necessary deeds, leases or other documents therein specified in order to consummate this transaction.

16. That in Docket No. E-7, Subs 161 and 173 (Duke's last general rate case) the Commission found as facts based on a test year ended December 31, 1974, that Duke had a fair value of plant in service to retail customers in North Carolina of $1,706,383,000; that Duke had test year revenues of $597,464,000 and test year expenses of $381,760,000; that Duke had a capital structure, for rate-making purposes, composed of 53.14% debt, 12.29% preferred stock, 31.00% common equity and 3.57% cost-free capital; and that Duke had an embedded cost of debt of 7.30% and a preferred stock cost of 7.22%.

17. That the aforementioned dockets and other recent dockets involving Duke Power Company contain no challenge to Duke's ability to provide a good and reasonable quality of service to all its subscribers and no suggestion that Duke is not, in fact, providing good quality service at rate levels fixed by this Commission.

18. That, based on current financial data in the Commission's files, Duke is earning approximately 11.06% on its average common equity for North Carolina operations; its fixed charge coverage before income taxes is approximately 2.87 times; and its bonds are rated A.

Based upon the foregoing Findings of Fact, the Commission now reaches the following

## CONCLUSIONS

The Commission concludes that its role in these proceedings is determined by Section 8 of Chapter 723 of the 1971 Session Laws and not by the provisions of Chapter 62 (e.g. G.S. 62-111) which would ordinarily apply to transfers of utility property, territory and franchises. Thus, questions or issues of public interest, public convenience and necessity, territorial assignments and the like are not before this Commission. They have been preempted by the Legislature and vested in the Special Commission and the U.N.C. Board of Trustees, later the Board of Governors of the University of North Carolina. Specifically, the Special Commission was authorized to "study the feasibility and desirability of retaining or 'selling, leasing, renting, transferring or otherwise disposing of' the telephone, electric, water and sewer systems, facilities, properties, assets, plants, works and instrumentalities in the jurisdiction of and operated by the University of North Carolina at Chapel Hill." Further, the Special Commission, in consultation with University officials, was directed to consider which disposition of the University utility enterprises would "be in the interest of the State of North Carolina, the University of North

Carolina at Chapel Hill, the employees of the enterprises or projects involved and those served by the enterprises or projects." The Commission is of the opinion that such issues, having been vested in the Special Commission and the University by the Legislature and having been determined by them, are not subject to further review by this Commission.

The Commission further concludes, as to the rates to be charged by Duke Power Company in the new area proposed for acquisition following the closing date, that such rates should be the same as those presently on file with this Commission and approved in Duke's last general rate case (as modified by filings under G.S. 62-134(e)). Duke should charge any new customers which it seeks to acquire in this proceeding the same rates presently being charged to all other customers by the classes which Duke has on file with this Commission. This conclusion is mandated for three reasons.

(1) Item 15(a), page 10 of the Agreement of Sale and Purchase provides that: "With respect to the Company's retail electric customers, the North Carolina Utilities Commission (NCUC) has general and supervisory jurisdiction over the retail rates and services of Duke Power Company and the Off-Campus University Electric operations will be merged with Duke's electric utility operations for ratemaking purposes with respect to said rates and services."

(2) It is apparent that the ability to charge its system-wide rates, rather than the rates presently in force, was, for Duke, one of the most critical factors in determining the amount which it submitted as its bid for the properties sought to be conveyed herein. Section 8 of Chapter 723 of the 1971 Session Laws specifically exempts this Commission from inquiry by the compensation to be paid by any successful bidder for the properties.

(3) G. S. 62-140 prohibits any public utility such as Duke or this Commission from making or approving any rates which make or grant any unreasonable preference to any person or subject any person to any unreasonable prejudice or disadvantage or which establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. If the Duke system-wide rates were not placed into effect for the Off-Campus Electric System on or about the closing date, then those customers would be receiving the same or similar service as Duke's other customers at a different rate. Such a situation would, by definition, be discriminatory.

The role of this Commission in the present Application is as follows: (1) To determine whether or not Duke Power Company has sufficient financial capability to pay the purchase price and acquire the system and (2) To determine whether or not Duke Power Company, having acquired the system, has sufficient financial and service capability to provide good and efficient service to the customers of the

Off-Campus Electric System and to maintain good and adequate service to its present customers. The Commission concludes that Duke Power Company is capable of doing both.

The unadjusted proposed purchase price as of March 1, 1973, in the amount of $12,931,000 represents only .0076% of the fair value of Duke's property in service to North Carolina retail customers as of December 31, 1974. Such fair value would not even include the value of Duke's South Carolina properties, the value of Duke's North and South Carolina properties attributable to wholesale customers and the value of additions to Duke's plant since December 31, 1974. The Commission concludes that Duke is financially sound and, without question, is capable of obtaining the capital required to purchase, improve and maintain the Off-Campus University Electric System.

The Agreement of Sale and attachments thereto make arrangements for additions to the Off-Campus Electric System needed to bring such System up to the standards utilized by Duke in its overall operations. The proposed acquisition will in no way impair Duke's ability to continue its present level and quality of service to existing customers. The Commission concludes that Duke will, therefore, be able to provide a good and efficient level of service to customers of the system proposed for acquisition as well as to its present customers.

Finally, the Commission concludes that the Joint Application ought to be approved and that Duke Power Company ought to be allowed to acquire the Off-Campus University Utility System according to the terms and provisions contained in the Agreement of Sale and Purchase.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Joint Application of the University of North Carolina and Duke Power Company for the sale of the Off-Campus University Electric System by U.N.C. to Duke according to the terms and conditions of the Agreement of Sale and Purchase attached to said Application be, and the same is hereby, approved.

2. That Duke Power Company be, and is hereby, authorized to acquire the Off-Campus University Electric System and the properties appurtenant thereto as provided in said Agreement of Sale and Purchase.

3. That Duke shall, by appropriate tariff filing, provide the Commission 30 days' notice of its intention to make its system-wide rates effective for customers in the Off-Campus University Electric System as provided by G.S. 62-134(a).

4. That the territories heretofore assigned to University Enterprises pursuant to Joint Application filed under G.S. 62-110.2 by various parties in combined Docket

Numbers ES-18, ES-31, ES-48 and ES-63 be, and the same are hereby, assigned to Duke Power Company as of the Closing Date provided by Section 32, Page 19 of the Agreement of Sale and Purchase. Duke shall file new maps with the Commission showing such territories as a part of the service area of Duke Power Company.

5. That Duke shall record the acquisition herein approved on its books and records as prescribed by the Uniform System of Accounts adopted by this Commission. Duke shall furnish the Commission 25 copies of the Journal Entries made by Duke to its books to account for this acquisition.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 293

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Application of Carolina Power & Light Company for Authority to Issue and Sell 3,500,000 Shares of Common Stock | ) ORDER GRANTING<br>) AUTHORITY TO SELL<br>) ADDITIONAL<br>) SECURITIES (COMMON<br>) STOCK) |

This cause comes before the Commission upon an Application of Carolina Power & Light Company ("Company"), filed under date of September 17, 1976, through its Counsel, Charles B. Robson, Jr., wherein authority of the Commission is sought as follows:

To issue and sell not to exceed 3,500,000 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 the business of generating, transmitting, delivering, and furnishing electricity to the public for compensation.

2. The Company's capital stock outstanding at June 30, 1976, consists of Common Stock with a stated value of

$567,505,781, Preferred Stock having a stated value of $288,118,400, and Preference Stock having a stated value of $47,900,000. As of June 30, 1976, retained earnings of the Company were $171,630,129.

3. The Company's existing long-term debt at June 30, 1976, amounted to principal amount of $1,109,030,000 in First Mortgage Bonds and $192,864 in promissory notes. The First Mortgage Bonds were issued and pursuant to an Indenture dated as of May 1, 1940, duly executed by the Company to Irving Trust of New York as Corporate Trustee, as supplemented and amended by twenty-one Supplemental Indentures.

4. The Company has previously negotiated the sale of and sold to Underwriters in accordance with the provisions of Underwriting Agreements similar to the proposed agreement which is attached to the Application as Exhibit A, 1,500,000 shares of its common stock in June, 1971; 2,000,000 shares of its common stock in January, 1972; 2,500,000 shares of its common stock in November, 1972; 3,000,000 shares of its common stock in November, 1973; 4,000,000 shares of its common stock in January, 1975; and 5,000,000 shares of its common stock in November, 1975. The terms and conditions of those and other negotiated sales of securities by the Company including the net costs to the Company, have been favorable; and in the opinion of the Company its proposed negotiated sale of not to exceed 3,500,000 additional shares of common stock, without par value, will result in the best price to the Company for such securities.

5. The Company proposes to issue and sell not to exceed 3,500,000 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 or about October 12, 1976; but the Company represents that it will negotiate a price therefor, after deduction of the underwriting commission or fee, not less than 90% of the last sale price of the Company's common stock on the New York Stock Exchange on that date.

6. Construction expenditures for additional electric plants totaled $199,231,300 in the period from September 1, 1975, through June 30, 1976, 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, principally the reduction of short-term borrowings incurred primarily for the construction of new facilities. Funds received from the net proceeds over and above funds needed to retire short-term

borrowings on the closing date (October 20, 1976) will be temporarily invested in high quality, short-term money market instruments. In addition to these short-term investments, it is estimated that short-term borrowings will again be required before the end of calendar year 1976 to support the Company's construction program.

7. The Company estimates that it will incur expenses in the approximate amount of $110,000 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:

(a) Is for a lawful object within the corporate purposes of the Petitioner;

(b) Is compatible with the public interest;

(c) Is necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public;

(d) Will not impair its ability to perform that service; and

(e) Is reasonably necessary and appropriate for such purpose.

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 3,500,000 additional shares of common stock, without par value, to Underwriters, pursuant to an Underwriting Agreement substantially in the form of Exhibit A to its Application in this proceeding at price per share, after deduction of the underwriting commission or fee, not less than 90% of the last sale price of the Company's common stock on the New York Exchange on or about October 12, 1976.

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 of sale, 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 30th day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 198

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
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| Application of Duke Power Company for Authorization under North Carolina General Statute 62-161 to Issue and Sell Securities (Common Stock) | ) ORDER GRANTING ) AUTHORITY TO ISSUE ) AND SELL UP TO ) 5,000,000 SHARES OF ) COMMON STOCK |

On February 17, 1976, Duke Power Company (the Company) filed an application with this Commission for authority to issue and sell a maximum of 5,000,000 additional shares of the Company's common stock without nominal or par value (the Proposed Stock).

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina; is a public utility engaged in the business of generating, transmitting, distributing and selling electric power and energy, and in the business of operating water supply systems and urban transportation systems, and is a public utility under the laws of this State and in its operations in the State is subject to the jurisdiction of the North Carolina Utilities Commission. It is duly domesticated in the State of South Carolina and is authorized to conduct and carry on business and is conducting and carrying on the businesses heretofore mentioned in that State. It is also a public utility under the laws of the State of South Carolina and in its operations in that State is subject to the jurisdiction of The Public Service Commission of South Carolina; and it is a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Power Commission.

2. The Company now proposes to issue and sell a maximum of 5,000,000 additional shares of the Proposed Stock during March or April of 1976, at negotiated public sale through negotiations with a group of investment banking firms to be jointly managed by Morgan Stanley & Company, Incorporated, and Merrill Lynch, Pierce, Fenner & Smith, Incorporated.

3. The Proposed Stock will be issued pursuant to the Company's Articles of Incorporation whereby the Company is authorized, from time to time, to sell any of its authorized and unissued shares of common stock upon such terms and in

such manner as may, from time to time, be fixed and determined by its Board of Directors.

4. Upon payment of the full consideration therefor and upon issue thereof, the Proposed Stock will be fully paid and nonassessable and will in all respects rank equally with the outstanding shares of the Company's common stock, having the same rights, privileges and limitations as set forth in the Company's Articles of Incorporation.

5. The Company will enter negotiations with a group of investment banking firms, to be jointly managed by Morgan Stanley & Company, Incorporated and Merrill Lynch, Pierce, Fenner & Smith, Incorporated to act as underwriters for the public offering of the Proposed Stock for cash at a negotiated price per share that will result in proceeds to the Company of not less than 95 1/2% of the last sale price per share of the Company's common stock on the New York Stock Exchange on the day the price is negotiated. No fee for services (other than attorneys, accountants, and fees for similar technical services) in connection with the negotiation or consummation of the sale of the Proposed Stock or for services in securing underwriters or purchasers thereof (other than underwriters' fees negotiated with the aforesaid investment bankers) will be paid in connection with the issue and sale of the Proposed Stock. The Company in its application requested authority to pay up to 5% in underwriters' commissions; however, in reviewing recent common stock issues sold both through negotiation and competitively, the 4 1/2% herein approved appears reasonable.

6. The Company believes that in order to regain its AA rating, it should reach a capital structure of 35% common equity, 13% preferred equity and 52% long-term debt. The Company's common equity ratio at December 31, 1975 was 31.0% and is expected to increase to only 32.8% on a pro forma basis after giving effect to the sale of the Proposed Stock and giving effect to the application of the proceeds from the sale of $19,250,000 principal amount of First and Refunding Mortgage Bonds, 11% Series Due 1994, sold on January 13, 1976, and the proposed sale and lease-back transaction contemplated to be in the total amount of $17,700,250.

7. The Company asserts its belief that a negotiated public sale of the Proposed Stock under existing market conditions can be handled more economically and expeditiously than a sale at competitive bidding based on its own independent investigation and studies and the advice of its financial advisers. A negotiated sale would afford the Company and the underwriters greater opportunity to meet with and advise security dealers and investors concerning the Company and the sale of the Proposed Stock. Such negotiated sale would also provide the ability to include desirable brokers in an underwriting group which otherwise would be split among the bidding groups. The Company

pointed out that only those utilities that are required to sell stock at competitive bidding have recently sold in such manner.

8. The net proceeds from the sale of the Proposed Stock will be applied and used by the Company to finance the cost of construction of additions to its electric plant facilities, which will include the repayment of outstanding short-term obligations incurred for that purpose. As of December 31, 1975, Duke's outstanding short-term obligations were about $85 Million.

9. The Company is continuing its construction program of substantial additions to its electric generation, transmission and distribution facilities in order to meet the expected increase in demand for electric service, and to construct and maintain an adequate margin of reserve generating capacity. Although the rate of growth has recently been reduced by reason of the adverse economic conditions and the "energy crisis," there is reason to expect that substantial growth will be experienced and will continue into the future. The Company's sales during the latter half of 1975 indicate a growth in utilization as the economy improves. The Company's construction costs were $439,000,000 for 1975 and are estimated to be about $521,000,000 for 1976.

CONCLUSIONS

Upon review and study of the verified application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the Company is a public utility subject to the jurisdiction of this Commission with respect to its rates, service and securities issues and that the proposed issuance of the Proposed Stock is:

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

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by the Company 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 Duke Power 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 negotiated public sale during March or April of 1976 to a group of underwriters to be jointly managed by Morgan Stanley & Company, Incorporated

and Merrill Lynch, Pierce, Fenner & Smith, Incorporated a maximum of 5,000,000 shares of the Company's common stock without nominal or par value;

2. To sell such Proposed Stock at a price per share which will result in proceeds to the Company of not less than 95 1/2% of the last sale price per share of the Company's common stock on the New York Stock Exchange on the day the price is negotiated; and

3. To use the net proceeds from the sale of the Proposed Stock to finance the cost of construction of additions to its electric plant facilities, including the repayment of outstanding short-term obligations incurred primarily for that purpose.

IT IS FURTHER ORDERED, That:

1. The Company report the sale of the Proposed Stock to the Commission within thirty (30) days after such sale is consummated (including the offering price, the price received by the Company for it, and the expenses of sale) and within such time it shall file with the Commission a copy of the Underwriting Agreement entered into by the Company and the Underwriters in the final form in which it is executed;

2. Should the Company issue and sell less than 5,000,000 shares of the Proposed Stock, it shall file with the Commission, as a part of its report of sale, a balance sheet of a reasonably current date and journal entries showing the effect of the issuance and sale of such lesser amount; and

3. This proceeding be and the same is continued on the docket of the Commission, without day, for the purpose of receiving the report of issue and sale of the Proposed Stock as hereinabove provided and nothing in this order shall be construed to deprive this Commission of its regulatory authority under law.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 211

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
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| Application of Duke Power Company for Authorization under North Carolina General Statute 62-161 to Issue and Sell Securities (First and Mortgage Bonds) | ) ORDER GRANTING ) AUTHORITY TO ISSUE ) AND SELL $100 MILLION ) PRINCIPAL AMOUNT OF ) FIRST AND REFUNDING ) MORTGAGE BONDS |

On September 13, 1976, Duke Power Company (Company) filed an application for authority to issue a maximum of $100,000,000 principal amount of First and Refunding Mortgage Bonds, ___% Series Due 2006, with the selling price and interest rate to be established through competitive bidding, and to execute and deliver a Supplemental Indenture to its First and Refunding Mortgage to secure payment of the bonds.

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina; is a public utility engaged in the business of generating, transmitting, distributing and selling electric power and energy, and in the business of operating water supply systems and urban transportation systems, and is a public utility under the laws of this State and in its operations in the State is subject to the jurisdiction of the North Carolina Utilities Commission. It is duly domesticated in the State of South Carolina and is authorized to conduct and carry on business and is conducting and carrying on the businesses heretofore mentioned in that State. It is also a public utility under the laws of the State of South Carolina and in its operations in that state is subject to the jurisdiction of The Public Service Commission of South Carolina; and is also a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Power Commission.

2. The Company now proposes to issue and sell during the month of October, 1976, at competitive bidding, a maximum of $100,000,000 principal amount of a new series of its First and Refunding Mortgage Bonds, ___% Series Due 2006, said bonds to be created and issued under its First and Refunding Mortgage, dated as of December 1, 1927, to Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be executed in connection with the issuance of the bonds.

3. The bonds will be thirty-year bonds; will bear interest at an annual rate to be specified in the bid which may be accepted by the Company for the sale of said bonds; the interest will be payable semiannually; and the bonds

will be subject to all of the provisions of the First and Refunding Mortgage dated as of December 1, 1927, referred to above, as supplemented, and as to be further supplemented by a Supplemental Indenture to be executed in connection with their issuance, and by virtue of said First and Refunding Mortgage will constitute (together with the Company's outstanding First and Refunding Mortgage Bonds) a first lien on substantially all of the Company's fixed property and franchises.

4. The bonds will be sold through competitive bidding, which will determine the interest rate to be borne by the bonds and the price to be paid to the Company for the bonds. The Company will reserve the right to reject all bids and any bid accepted will be that which will result in the lowest annual cost of money for the bonds. The bonds will be nonrefundable at a lower cost of money for five years from the date of issuance. The holders of the bonds will have no voting privileges and the bonds will be in fully registered form with provision made for free transfers or exchanges of registered pieces.

5. The net proceeds from the sale of the bonds will be applied and used by it for the purpose of financing the cost of construction of additions to its electric plant facilities, including the repayment of outstanding short-term obligations incurred for that purpose. On August 31, 1976, such outstanding obligations amounted to approximately $72,000,000 and are expected to be about $95,000,000 by the time bids may be received for the sale of the proposed bonds.

6. The Company represents that no fee for services (other than attorneys, accountants, mortgage trustee and fees for similar technical services) in connection with negotiation or sale of the bonds or for services in securing underwriters or purchasers thereof (other than fees included in any accepted competitive bid) will be paid in connection with the issue and sale of the bonds.

7. The Company is continuing its construction program of substantial additions to its electric generation, transmission and distribution facilities in order to meet an increase in demand for electric service, which it expects to continue, and to construct and maintain an adequate margin of reserve generating capacity. The Company's sales during the twelve months ended June 30, 1976, indicate a growth in utilization as the economy improves. The Company's winter peak of 8,600,630 kilowatts, reached on January 19, 1976, exceeded its 1975 peak of 8,421,960 kilowatts (which occurred on August 25, 1975) by 2.1%, and exceeded its 1974 peak load of 8,057,625 kilowatts by 6.7%. Kilowatt-hour sales during the six months ended June 30, 1976, exceeded those of the same period of 1975 by 10.8%. Expenditures for the Company's construction program were $439,000,000 for 1975 and are estimated at $521,000,000 for 1976.

CONCLUSIONS

Upon review and study of the verified application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the Company is a public utility subject to the jurisdiction of this Commission with respect to its rates, service, and securities issues and that the proposed issuance of the bonds by the Company is:

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

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by the Company 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 Duke Power 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 during the month of October, 1976, a maximum of one hundred million ($100,000,000) dollars principal amount of a new series of its First and Refunding Mortgage Bonds, ___% Series Due 2006;

2. To execute and deliver a Supplemental Indenture to its First and Refunding Mortgage dated as of December 1, 1927, to Morgan Guaranty Trust Company of New York, as Trustee, to secure payment of the bonds;

3. To use the net proceeds from the sale of the bonds for the purpose of financing the cost of construction of additions to its electric plant facilities, including the repayment of outstanding short-term obligations incurred primarily for that purpose.

IT IS FURTHER ORDERED:

1. That the Company report to the Commission the sale of the bonds (including the interest rate to be borne by them, the price received by it for them and the expenses of sale) within thirty (30) days after the sale is consummated, and within such time it shall file with the Commission a copy of the Form of Bid, Purchase Contract and Supplemental Indenture executed and delivered in connection with the issuance and sale of the bonds in the final form in which such documents are executed;

2. That should the Company issue and sell less than $100,000,000 principal amount of the bonds, it shall file with the Commission, as a part of its report of sale, a balance sheet of a reasonably current date and journal entries showing the effect of the issuance and sale of the bonds; and

3. That this proceeding be and the same is continued on the docket of the Commission, without day, for the purpose of receiving the report of issue and sale of the proposed bonds as hereinabove provided and nothing in this order shall be construed to deprive this Commission of its regulatory authority under law.

ISSUE BY ORDER OF THE COMMISSION.

This the 22nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-13, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Nantahala Power and Light Company for Authority to Acquire Certain Outstanding Capital Stock, Issuing Long-Term Debt in Exchange Therefor | ) ORDER GRANTING<br>) AUTHORITY TO<br>) CONVERT A PORTION<br>) OF COMMON EQUITY<br>) CAPITAL INTO<br>) LONG-TERM DEBT |

This cause comes before the Commission upon an application of Nantahala Power and Light Company (hereinafter "Nantahala" or the "Company"), filed under the date of April 23, 1976, through its Counsel, R. C. Howison, Jr. of the firm of Joyner & Howison, Post Office Box 109, Raleigh, North Carolina 27602, wherein authority of the Commission is sought as follows:

1. To execute a plan of recapitalization by acquiring a portion of its par value capital stock valued at $8,900,000 in exchange for $8,900,000 principal amount of its unsecured long-term notes. The plan of recapitalization being the first step towards Nantahala's goal of maintaining a capital structure of 55% debt, 5% preferred stock, and 40% common equity which very nearly coincides with the Commission's recommended capital structure.

FINDINGS OF FACT

1. Nantahala is a North Carclina corporation having its principal office in Franklin, Macon County, North Carolina, and is duly engaged in the business of electric generation, transmission and distribution in North Carolina as a public utility under the jurisdiction of this Commission.

2. Nantahala is the wholly-owned subsidiary of Aluminum Company of America (Alcoa) which company has heretofore completely financed Nantahala by means of, from time to time, the purchase of common stock, paid-in capital, retained earnings and interest-free advances of funds which advances are subject to repayment upon demand. This type of financing has resulted in Nantahala maintaining a 100% permanent-type common equity capital structure until December, 1975, when it entered into a Revolving Credit Agreement with Wachovia Bank & Trust Company for borrowings up to $3,000,000. This loan agreement was approved by the Commission, December 10, 1975 (Docket No. E-13, Sub 25). The first drawdown against the loan was $1,400,000 and as of December 31, 1975, Nantahala's capital structure consisted of 92.86% common equity and 7.14% debt excluding cost-free capital composed of accumulated deferred investment tax credits and income taxes.

3. The Commission in its last two general rate case decisions (Docket Nos. E-13, Sub 20, Order dated November 30, 1972, and E-13, Sub 23 Order dated August 8, 1975) has been critical of Nantahala's capital structure because it consisted almost entirely of equity thereby failing to take advantage of the leverage provided by debt and the advantages inherent in the income tax deduction for interest paid on debt. The Commission's recommended capital structure was 55% debt, 35% common equity, and 10% preferred stock.

4. As the first step towards this goal, Nantahala has adopted a plan of recapitalization pursuant to which it will acquire and retire 129,798 shares of its $10 par value capital stock in exchange for $8,900,000 principal amount of its unsecured long-term notes, $4,442,000 of which are finally due and payable in 1995, with the remainder having final maturities of from 13 to 17 years. All such proposed notes will require partial payments of principal in most of the years prior to final maturity. The details of this recapitalization are set forth hereinafter in the text and exhibits to the application. Upon retirement of the acquired stock and the issuance of the notes, Nantahala's capital structure will be $19,609,000 consisting of long-term debt in the amount of $10,300,000 or 52.53%, and common equity of $9,309,000 or 47.47%. Assuming reasonable earnings, Nantahala contemplates that from internally generated funds and external financing through the issuance of additional long-term debt and preferred stock it can meet its capital requirements through 1980 and attain its desired

capital structure without the issuance of additional common stock.

5. Although Nantahala's capital is and always has been almost entirely equity, because Nantahala is the wholly-owned subsidiary of Alcoa, that equity is necessarily composed of funds raised by Alcoa from its own debt and equity. Consequently, Nantahala is of the opinion, which opinion is accepted by Alcoa, that the notes which it issues to Alcoa for exchange of stock should bear the interest rates, amortization schedules and other terms and conditions contained in Alcoa's major debt obligations with the average interest rate being equal to Alcoa's embedded cost of debt of 7.2|%. This average interest rate of 7.2|% is substantially below the current cost of long-term debt to Alcoa and even further below the cost which Nantahala would be required to pay were it issuing such notes in the competitive money markets, and with more favorable amortization schedules.

6. A study by the Commission staff shows that the 7.2|% embedded cost of debt is below the embedded cost of the other three North Carolina regulated Class A electric companies. The embedded costs as of December 3|, |975, were:

| | |
|---|---|
| Carolina Power & Light Company | 7.73% |
| Duke Power Company | 7.74% |
| Virginia Electric & Power Company | 7.52% |
| Nantahala (Proposed) | 7.2|% |

7. Nantahala at December 3|, |975, was indebted to Wachovia Bank and Trust Company, N.A., in the amount of $|,400,000 pursuant to its Revolving Credit Agreement permitting borrowings up to $3,000,000. Nantahala must also issue long-term debt to outside purchasers during the next few years to meet its capital needs and until its desired capital structure is attained and, of course, thereafter as a part of its continuing financing program. In order that the marketability to the public of such debt issues may be enhanced and reasonable interest rates obtained, Nantahala has requested and Alcoa has agreed to subordinate $5,507,000 of the $8,900,000 of proposed notes to whatever debt of Nantahala is currently outstanding or may hereafter be issued by it and designated by Nantahala "Superior Indebtedness." This agreement by Alcoa to subordinate lessens the value and marketability of such subordinated notes in the hands of Alcoa but benefits Nantahala's ratepayers.

8. Nantahala proposes to issue seven notes to Alcoa, three of which aggregating $3,393,000 being designated as "Superior Indebtedness," and four of which aggregating $5,507,000 being designated as subordinated debt.

There was appended as Exhibit B to the Application a schedule of the embedded cost of Alcoa's long-term debt, the

cost of the various components thereof and the percentage which each such component bears to Alcoa's total long-term debt. The sub-schedules of that exhibit show the derivation of such cost for each component. Examination of this Exhibit B reveals that each of the notes which Nantahala proposes to issue corresponds both in interest rate and in percentage amount to the several components of Alcoa's long-term debt.

9. The advantage to the ratepayers by a utility using a reasonable amount of debt capital as opposed to almost all common equity capital to finance its plant investment to provide service is shown below. The rate of return on common equity increases when a substantial amount of debt capital is utilized even though the operating revenues remain constant.

NANTAHALA'S CONDENSED STATEMENT OF INCOME
FOR THE YEAR ENDED DECEMBER 31, 1975

| | Per Books | Pro Formed |
|---|---|---|
| Debt Percent of Capital Structure | 7.14% | 52.53% |
| Operating Revenues | $ 9,042,794 | $9,042,794 |
| Operating Expenses and Taxes | 8,177,923 | 7,794,095 |
| Net Utility Operating Income | 864,871 | 1,248,699 |
| Other Income | 6,134 | 6,134 |
| Other Income Deductions | (37,235) | (37,235) |
| Net Other Income and Deductions | 43,369 | 43,369 |
| Interest Expense | 10,841 | 761,678 |
| Net Income Available for Common Equity | 897,399 | 530,390 |
| Common Equity Capital - Year End | $18,209,531 | $8,942,522 |
| Rate of Return on Common Equity | 4.92% | 5.93% |

CONCLUSIONS

From a review and study of the Application, its supporting data and of the information in the Commission's files, the Commission is of the opinion and so concludes that the recapitalization herein proposed is:

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

(ii) Compatible with the public interest;

(iii) Necessary or appropriate for or consistent with the proper performance by Nantahala of its service to the public;

(iv) Not detrimental to Nantahala's ability to perform that service; and

(v) Reasonably necessary and appropriate for the purposes for which it is made.

IT IS, THEREFORE, ORDERED THAT:

1. Nantahala is authorized to enter into the proposed plan of recapitalization as described in the Application including the use of the forms of loan agreements and notes set forth in Exhibits E and F as attached to the Application.

2. Nantahala shall file with the Commission, as soon as practical after the implementation of the recapitalization transaction, two copies of a report setting forth the effective date of the transaction and the conformed copies of the loan agreements executed.

3. Nothing in this Order shall be construed to deprive this Commission of any of its regulatory authority under law.

4. This order shall become effective on and after June 1, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 199

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| Application of Duke Power Company for Authorization under North Carolina General Statute 62-161 to Enter into Certain Sale and Lease-Back Transactions | ) ORDER GRANTING<br>) AUTHORITY TO SELL<br>) AND LEASE-BACK AN<br>) OFFICE BUILDING AND<br>) THE TODDVILLE<br>) WAREHOUSE FACILITY |

On February 17, 1976, Duke Power Company (the Company) filed an application with this Commission for authority to enter into (i) the sale and lease-back of the Power Building located at 422 South Church Street, Charlotte, North Carolina, and (ii) the sale and lease-back of the Toddville warehouse facility also located in Charlotte, North Carolina.

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina; is a public utility engaged in the business of generating, transmitting, distributing and selling electric power and energy, and in the business of operating water supply systems and urban transportation systems, and is a public utility under the laws of this State and in its operations in the State is subject to the jurisdiction of the North Carolina Utilities Commission. It is duly domesticated in the State of South Carolina and is authorized to conduct and carry on business and is conducting and carrying on the businesses heretofore mentioned in that State. It is also a public utility under the laws of the State of South Carolina and in its operations in that State is subject to the jurisdiction of The Public Service Commission of South Carolina; and it is a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Power Commission.

2. The Company is continuing its construction program of substantial additions to its electric generation, transmission and distribution facilities in order to meet the expected increase in demand for electric service, and to construct and maintain an adequate margin of reserve generating capacity. Although the rate of growth has recently been reduced by reason of the adverse economic conditions and the "energy crisis," there is reason to expect that substantial growth will be experienced and will continue into the future. The Company's sales during the latter half of 1975 indicate a growth in utilization as the economy improves. The Company's construction costs were $439,000,000 for 1975 and are estimated to be about $521,000,000 for 1976.

3. The Company planned to obtain financing for its construction program through normal sales of equity securities and first and refunding mortgage bonds, but adverse market conditions and the amount of revenues subject to refund on the Company's books during the past several years caused the Company to seek other sources of funds. Certain construction expenditures previously scheduled were deferred in order to reduce the external financing requirements, the most recent reduction being the delay of one year in the scheduled completion dates of the proposed Perkins and Cherokee Nuclear Stations. However, additional funds must be obtained in order to continue the construction program at its presently scheduled level.

4. The Sale and Lease-Back method of financing to provide funds for a constuction program has its limitations and should not exceed 4% to 5% of a Company's total capitalization. Generally it is slightly more costly than the straight sale of debt securities and is not the preferred method of utility financing. However, Duke, as with many other utilities nationwide, resorted to this type

of financing during the recent recessionary period when funds for conventional type borrowing were in tight supply and the interest rates were very high. During this period, the net interest rates of sale and lease-back arrangements were close to the net interest cost of conventional types of borrowing. This transaction was begun in June of 1975 with tentative terms and conditions including the underlying interest rates of 9.51% for the Power Building and 9-3/4% for the Toddville warehouse facility having been negotiated in October, 1975, subject to regulatory approval. These underlying interest rates were competitive with yields on "A" rated Bonds in October, 1975.

A Sale and Lease-Back type transaction as well as private placements of debt securities involves a time lag in their implementation. This time lag at times covers several months. Usually, the rate of interest is agreed on in the early stages and the processing of the required documents and the effective date of the first receipt of funds from the transaction occurs at the end of the period. During this period, the general level of interest rates may vary by a significant amount such as one to two full percentage points. In this instant case, the current market interest rates are somewhat lower than the rates negotiated in October, 1975.

In approving this transaction, the Commission recognizes the different level of market interest rates presently in effect to those negotiated in October, 1975, and is hopeful that Duke's financial condition is such that future financing can be of the more conventional type which will permit the setting of the interest rate more closely to the market rate at the time the financing is actually consummated. Duke has told the Commission that it does not plan to enter into any further transactions of this type.

5. The Company proposes during March or April of 1976 to consummate the sale and lease-back transactions involving (i) the Power Building housing the Company's general offices located at 422 South Church Street, Charlotte, North Carolina, and (ii) its Toddville warehouse facilities also located in Charlotte, North Carolina.

6. The Power Building sale and lease-back transaction contemplates the following:

(a) The purchase by Oppenheimer Properties, Inc., the Lessor (or its assigns), of the Power Building and the parking facilities located adjacent to the building within the same block (the Building) for a price of $10,250,000 based on a fair market value appraisal.

(b) The Building will then be leased to the Company based on a rental constant of 10.49% equating to an underlying interest rate of 9.51% for a period of 25 years (plus any fractional month). The lease is subject to five 5-year renewal options with the same rental during the initial

optional period, reduced to 90% during the second optional period and 80% during the three remaining renewal periods.

(c) The lease is on a strictly net lease basis and contains provisions to permit additional construction on the land involved either through the repurchase of necessary land and having the construction done by a third party or directly by the Company, or by having the construction done by the Lessor, whichever is most advantageous to the Company.

(d) The lease also provides for economic termination at any time after ten years through an offer to repurchase the property at the greater of fair market value or $10,490,000.

(e) The annual rental on the property (to be paid in monthly installments) will be $1,075,225 during the primary term and the first renewal term, $967,703 during the second renewal term and $860,180 during the remaining renewal terms. The Company has the option to repurchase the property at fair market value at the end of the primary term or any optional renewal term.

7. The sale and lease-back transaction of the Toddville warehouse facility contemplates the following:

(a) The purchase by Oppenheimer Properties, Inc., the Lessor (or its assigns), of the land and buildings located thereon (known as the Toddville warehouse facility) consisting of approximately 115.58 acres of land near Charlotte, North Carolina. The purchase price is $7,450,250 based on a fair market value appraisal.

(b) The buildings and land will then be leased to the Company based on a rental constant of 10.7% equating to an underlying interest rate of 9-3/4% for a term of 25 years (plus any fractional month). The lease is subject to five 5-year renewal options with the same rental during the initial optional period, reduced to 90% during the second optional period and 80% during the three remaining renewal periods.

(c) The lease is on a strictly net lease basis and contains provisions to permit additional construction on the land involved either through the repurchase of necessary land and having the construction done by a third party or directly by the Company, or by having the construction done by the Lessor, whichever is most advantageous to the Company.

(d) The lease also provides for economic termination at any time after ten years through an offer to repurchase the property at a sum of $2,260,989 (the actual cash to be invested by Lessor) plus the unamortized portion of the original mortgage which will be approximately 75% of the initial purchase price by Oppenheimer.

(e) The annual rental on the property (to be paid in monthly installments) will be $797,176.75 during the primary term and the first renewal term, $717,459.08 during the second renewal term, and $637,741.40 during the remaining renewal terms. The Company has the option to repurchase the property at fair market value at the end of the primary term or any optional renewal term.

8. The net proceeds from the sale and lease-back transactions will be applied and used by the Company to finance the cost of construction of additions to its electric plant facilities, which will include the repayment of outstanding short-term obligations incurred for that purpose. As of December 31, 1975, Duke's outstanding short-term obligations were about $85,000,000.

CONCLUSIONS

Upon review and study of the verified application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the Company is a public utility subject to the jurisdiction of this Commission with respect to its rates, service and securities issues and that the proposed transactions are:

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

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by the Company 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 Duke Power Company be, and it is hereby authorized, empowered and permitted, under the terms and conditions set forth in the application:

1. To enter into the proposed sale and lease-back transactions with Oppenheimer Properties, Inc. (or its assigns) involving (i) the Power Building at 422 South Church Street, Charlotte, North Carolina; and (ii) the Toddville warehouse facility also located in Charlotte, and to do all acts and things necessary or desirable in connection with the consummation of the proposed transactions including the execution and delivery of the necessary documents and the performance thereunder;

2. To use the net proceeds from the sale and lease-back transactions to finance the cost of construction of additions to its electric plant facilities, including the repayment of outstanding short-term obligations incurred primarily for that purpose.

IT IS FURTHER ORDERED, That:

1. The Company file with the Commission within thirty (30) days after the consummation of the proposed transactions a report setting forth the complete terms of the transactions (including the expenses of the transactions) and a copy of the leases in the final form in which they are executed; and

2. This proceeding be and the same is continued on the docket of the Commission, without day, for the purpose of receiving the report as hereinabove provided and nothing in this order shall be construed to deprive this Commission of its regulatory authority under law.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-19, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of | |
| Petition of Roselle Lighting Company, Inc. for Approval of Refund Procedure | ) ORDER APPROVING ) REFUND PROCEDURE |

BY THE COMMISSION: On June 30, 1976, Roselle Lighting Company, Inc. filed with this Commission a Petition seeking approval of a proposed method of distributing certain monies to be refunded to its retail customers. These monies were received by Roselle from its supplier, the Town of Landis, as the result of the Federal Power Commission's approval of a Settlement Agreement between Duke Power Company and its wholesale customers.

Based on the Petition as filed and the Commission Staff investigation of this matter, the Commission is of the opinion that the proposed refund method is just and reasonable and, therefore, that the Petition should be approved.

IT IS, THEREFORE, ORDERED:

1. That the method of refund proposed by Roselle in its Petition of June 30, 1976 is hereby approved as a method of distributing the monies to be received by Roselle from the Town of Landis.

2. That Roselle shall as soon as possible take steps to implement the above-described procedure.

3. That, as soon as possible after implementing the refund, Roselle shall provide this Commission with a report similar in form to Exhibits I and II attached to the Petition, showing the actual computation of the refund distributed to Roselle's retail customers.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>North Carolina Natural Gas Corporation's Application for Surcharge to Recover Net Cost of Emergency Purchase of Natural Gas | ) ORDER AFFIRMING TARIFF FOR EMERGENCY PURCHASE |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina, March 24, 1976

BEFORE: Commissioner George T. Clark, Jr., Presiding, Commissioners Ben E. Roney, Tenney I. Deane, Barbara Simpson, and J. Ward Purrington

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Box 1688, Fayetteville, North Carolina 28302

For the Petitioner:

William H. McCullough, J. Allen Adams, Hugh Cannon, Sanford, Cannon, Adams & McCullough, Attorneys at Law, P. O. Box 289, Raleigh, North Carolina
For: Farmers Chemical Association, Inc.

Anthony E. Cascino, Jr., CF Industries, Inc., Salem Lake Drive, Long Grove, Illinois 60047
For: CF Industries, Inc.

For the Intervenor:

Henry S. Manning, Jr., Joyner & Howison, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina
For: Aluminum Company of America

K. Jacqueline Bernat, Aluminum Company of America, 1501 ALCOA Building, Pittsburgh, Pennsylvania 15219
For: Aluminum Company of America

Jerry B. Pruitt, Attorney General's Office, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission on a Petition for Reconsideration filed by Farmers Chemical Association, Inc., (Farmers Chemical) a nitrogen fertilizer manufacturing company located at Tunis, Hertford County, North Carolina, on February 2, 1976.

The petition relates to a tariff filing made by North Carolina Natural Gas Corporation (NCNG) on December 22, 1975, requesting that the Commission approve the tariff for an emergency purchase surcharge for certain volumes of gas purchased by NCNG from Michigan Consolidated Gas Company (Michigan Consolidated). Under the agreement between NCNG and Michigan Consolidated a specified volume of natural gas supplies would be available to NCNG for a sixty-day period beginning December 1, 1975. The additional cost including gross receipts taxes which NCNG proposes to recover amounts to $1,544,211. In that tariff filing NCNG proposed that a temporary emergency surcharge be imposed for the purchase on all customers excluding residential customers and Farmers Chemical.

By letter of January 6, 1976, the Commission's decision of December 29, 1975, was transmitted to NCNG. The Commission indicated that it would authorize NCNG to recover the expense for the emergency purchase from all customers excluding residential customers.

NCNG filed tariffs in accordance with the Commission's decision on January 7, 1976, to become effective on billings on and after that date.

By Order of February 16, 1976, the Commission set the Petition for Reconsideration of Farmers Chemical for scheduled hearing beginning March 24, 1976, and required NCNG to issue notice of the hearing to its customers in accordance with the Commission's Order.

At the hearing on March 24, 1976, testimony was presented by the following witnesses: Donald B. Borst, Executive Vice President of CF Industries, Inc., and John A. Lawrence, Vice President, Northern Manufacturing Region of CF Industries on behalf of Farmers Chemical. NCNG presented the testimony of Carl D. Rosenbaum, Assistant to Vice President, and Calvin B. Wells, Vice President of NCNG. Maynard F. Stickney, Chief Industrial Engineer, presented testimony for ALCOA. Raymond J. Nery, Chief Engineer, Gas Section, Engineering Division, presented testimony on behalf of the Commission Staff.

Any party desiring to file briefs or proposed findings was afforded an opportunity to do so. On May 18, 1976, Farmers Chemical filed brief and proposed findings of fact and conclusions of law.

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

FINDINGS OF FACT

1. North Carolina Natural Gas Corporation (NCNG) is a public utility distributing natural gas to customers in its service area in North Carolina including Hertford County, North Carolina.

2. On or about December 1, 1975, NCNG contracted with Michigan Consolidated Gas Company for the purchase of 1,441,362 mcf natural gas supplies at a price of $1.89613 per mcf. Such quantity less a 4% compressor fuel and line loss would be a total delivery to NCNG of 1,383,708 mcf. The cost of such emergency gas in excess of flowing pipeline gas from Transcontinental Gas Pipeline Corporation (Transco) was $1,451,558. With the inclusion of North Carolina gross receipts taxes, the net amount of the temporary emergency purchase is $1,544,211.

3. The winter season for NCNG is from November 16 to April 15. At the time the contract was entered into, projected curtailment by Transco, the only supplier to NCNG, for the 1975-76 winter season was approximately 45% to 48% of entitlements. This was the highest projected curtailment for any winter season in the history of NCNG. The curtailment for the 1974-75 winter season was 30% which at that time was higher than any other preceding season.

4. NCNG is required to distribute natural gas supplies to its customers in accordance with priorities established in rule-making proceedings by this Commission. The priorities currently existing were established by the Commission's Order of September 9, 1975, in Docket No. G-100, Sub 24.

5. Farmers Chemical presently holds a priority 0.1 class.

6. Farmers Chemical is a corporation organized under the laws of the State of Tennessee as an agricultural cooperative association and is authorized to do business in North Carolina. Farmers Chemical produces nitrogen fertilizers for its four regional cooperative owners for distribution in North Carolina and other southeastern states from its manufacturing complex at Tunis, Hertford County, North Carolina. Farmers Chemical is managed by CF Industries, Inc., Long Grove, Illinois.

7. Farmers Chemical has a contract for firm natural gas service with its sole supplier NCNG, which contract is subject to Commission rules relating to curtailments of service.

8. Natural gas is a nonsubstitutable fuel for Farmers Chemical and the natural gas received by it is used for feedstock and process uses. Alternate fuels including propane are not feasible for use at the Tunis plant. Without natural gas the plant cannot operate.

9. As of October 3, 1975, it appeared that because of Transco's curtailment the total entitlement of natural gas available from Transco to NCNG for the 1975-76 winter season would be 10,337,000 mcf. Such entitlement would have been 45% service to Farmers Chemical for the winter season.

10. Transco made restoration of flowing gas volumes to NCNG on November 13, 1975, for the 1975-76 winter period in the amount of 1,019,000 mcf. This increased somewhat NCNG's ability to serve Farmers Chemical from 45% for winter service to 65% for winter service. On December 10, 1975, Transco made another restoration to NCNG for the 1975-76 winter season of 608,000 mcf. On January 15, 1976, Transco made a further restoration to NCNG for the 1975-76 winter season of 1,494,000 mcf.

11. At the levels of supply existing up to and through the first part of January, 1976, NCNG, under Commission priorities for curtailment, curtailed, by the percentages shown in Nery's Exhibit 3, all high priority industrial and commercial customers. During that period Farmers Chemical continued to operate at 100% of its requirements. Farmers Chemical's Tunis plant requires 29,200 mcf per day to operate.

12. At the time the contract was made, NCNG made the only emergency purchase for the winter season 1975-76 to serve high priority industrial and commercial customers, and these are the customers of NCNG which benefited from the temporary emergency purchase.

13. At the level of supplies shown in Nery's Exhibit 3, residential customers of NCNG would not have been curtailed for any period.

14. The emergency purchase by NCNG from Michigan Consolidated enabled NCNG to serve not only Farmers Chemical but industrial and commercial customers in lower priorities.

15. Farmers Chemical received 100% of its natural gas requirements from NCNG for the entire 1975-76 winter season up to and including the date of this Order. No other industrial or commercial customer of NCNG received 100% until January 15, 1976, when several of them did so.

16. By telegram of December 1, 1975, NCNG notified Farmers Chemical of its intent to make an emergency purchase of natural gas supply and indicated the approximate amount of the surcharge.

17. The natural gas under the emergency purchase began flowing on or about December 1, 1975, for a sixty-day delivery period.

18. The emergency surcharge for all industrial and commercial customers of NCNG for this emergency purchase is approximately 18.5¢ per mcf.

19. All industrial and commercial customers of NCNG benefited from the emergency purchase by NCNG from Michigan Consolidated for the winter season 1975-76.

20. The monthly bills for natural gas from NCNG to Farmers Chemical are approximately $1,000,000.

21. The cost of this emergency surcharge to Farmers Chemical is approximately $650,000 of which approximately $250,000 is due to inclusion of feedstock volumes in the computation of the surcharge, which latter amount was collected under protest from January 7, 1976, until May 6, 1976.

22. Farmers Chemical's purchases generally amount to approximately one-fourth of all industrial sales of natural gas from NCNG.

Based upon the foregoing Findings of Fact, the Commission makes the following

## CONCLUSIONS

There is no dispute by any of the parties to this proceeding regarding the volume or dollar amount of the emergency purchase by NCNG from Michigan Consolidated or that it was the only NCNG emergency purchase for the 1975-76 winter season. Further, there is no dispute that, at the time the contract was made by NCNG, NCNG was faced with the most extensive projected curtailment of natural gas by its sole supplier Transco in the history of the company in the range of 45% to 48% of entitlements. The most severe curtailment experienced prior to that time was the preceding 1974-75 winter season involving approximately 30%.

Farmers Chemical has raised no allegations in this proceeding that the NCNG purchase from Michigan Consolidated was not a prudent management decision.

There is at issue in this proceeding and for determination by the Commission the pricing of a short-term emergency purchase by NCNG of natural gas. Farmers Chemical contends (1) that it should either be exempt from the emergency surcharge because of restorations to NCNG which occurred sometime after the contract was entered for the emergency purchase or (2) that all customers, including residential customers, should have to pay the emergency surcharge if Farmers Chemical has to pay for it.

Farmers Chemical raises certain positions taken by the Commission before the Federal Power Commission and contends that the same should be applicable in this proceeding. The efforts of the Commission before the FPC were on behalf of all natural gas users in North Carolina and especially Farmers Chemical since Farmers Chemical was forced to experience curtailment for one month in the 1974-75 winter season. The efforts of the Commission were an attempt to obtain the largest possible volumes of natural gas supplies for North Carolina users. The proceeding only involved settlement purposes, and volumes were the primary consideration. The Commission's action in this proceeding is not inconsistent with positions taken before the FPC.

The questions before the Commission in this case must turn on the decision of NCNG management at the time the contract with Michigan Consolidated was entered into sometime in late November or early December, 1975. Faced with the most critical projected curtailment in the history of the company, we conclude that it was prudent of the management of NCNG to make the emergency purchase for the 1975-76 winter season from Michigan Consolidated. At that time Mr. Wells, Vice President of NCNG, indicated that the emergency purchase was made for NCNG's high priority industrial and commercial customers and that the time framework for this decision was "definitely crucial."

While we do not regard the notice by NCNG to Farmers Chemical as important to the determination of the issues of this proceeding, the Commission observes that by telegram of December 1, 1975, NCNG advised Farmers Chemical of the possibility of the emergency purchase and the approximate amount of the projected surcharge. Farmers Chemical knew at that time and certainly not later than January 8, 1976, when the first billing was received that it would be receiving volumes from the emergency purchases. In the brief filed by counsel for Farmers Chemical, the company indicates on November 6, 1975, it "agreed with NCNG to operate on then known volumes of curtailment until approximately January 3, 1976, and then close" the Tunis plant. Farmers Chemical continued to receive natural gas supplies throughout the entire 1975-76 winter season and should be obligated to pay

for those supplies. To allow an exemption would be unlawful under G. S. 62-140.

We recognize that Farmers Chemical uses natural gas for feedstock purposes and cannot operate its plant at Tunis without natural gas. Farmers Chemical is the only customer of NCNG that received 100% of its plant requirement for the winter season 1975-76 to date and in particular during the periods of curtailment from October, 1975, through January 15, 1976.

NCNG has a legal obligation to serve all of its customers under the priorities approved by the Commission and under available supplies from Transco.

Under the facts of this case, it is clear that residential customers would not have been curtailed for any period and, therefore, did not benefit directly from the emergency purchase. It is equally clear that Farmers Chemical and all other industrial and commercial customers did benefit from the emergency purchase. Accordingly, under the facts of this case, we conclude that it is appropriate to approve the tariffs filed on January 7, 1976, as just and reasonable and to deny the petition of Farmers Chemical for reconsideration.

IT IS, THEREFORE, ORDERED as follows:

1. That the Petition for Reconsideration filed by Farmers Chemical in this proceeding be, and the same hereby is, denied.

2. That the tariffs filed by NCNG on January 7, 1976, and heretofore approved by the Commission are approved under this Order and affirmed.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of June, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 128B

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of North Carolina Natural ) ORDER
Gas Corporation for an Adjustment of ) ADJUSTING
its Rates and Charges ) RATE

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on July 20, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, and W. Scott Harvey

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland and Raper, Attorneys at Law, Post Office Box 1688, Fayetteville, North Carolina 28302

For the Intervenors:

Anthony Cascino, CF Industries, Inc., Salem Lake Drive, Long Grove, Illinois
For: CF Industries, Inc., and Farmers Chemical Association, Inc.

William McCullough, Charles, Meeker, Sanford, Cannon, Adams and McCullough, Attorneys at Law, Post Office Box 389, Raleigh, North Carolina
For: CF Industries, Inc., and Farmers Chemical Association, Inc.

Jerry B. Fruitt, Associate Attorney General, North Carolina Attorney General's Office, Justice Building, Post Office Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 16, 1976, North Carolina Natural Gas Corporation (hereinafter referred to as N.C. Natural or the Company) filed with the Commission schedules showing computation of an adjustment reducing the Curtailment Tracking Rate (CTR) approved for the Company in Docket No. G-21, Sub 128, from $.0623 per mcf to $.0500 per mcf effective July 1, 1976. By this filing N.C. Natural also recomputed its base period margin to correct errors in the original margin approved in the above docket.

On June 24, 1976, the Attorney General of North Carolina filed a Notice of Intervention and a Motion to Declare a General Rate Case and Set Hearing in this docket. By Order

issued June 25, 1976, the Commission recognized the Attorney General's Intervention.

Upon consideration of the application filed by N.C. Natural, the Motion of the Attorney General, and the entire record in this docket, the Commission issued an Order on June 29, 1976, setting the matter for hearing on July 20, 1976, and requiring notice to the public. The Commission further concluded that the proceeding was not a general rate case.

On July 12, 1976, counsel for CF Industries, Inc., and Farmers Chemical Association, Inc., filed Petition for Leave to Intervene. By Order issued July 15, 1976, the Commission allowed said Intervention.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner, Mr. Purrington, ruled that this is a case confined to the reasonableness of a specific single rate, namely, the curtailment tracking rate and involves questions which do not require a determination of the entire rate structure and overall rate of return. Commissioner Purrington further ruled that the proceeding was conducted pursuant to the Commission's rate-making authority conferred by G.S. 62-30, 31, 32, and 130.

The Attorney General also moved that the application be dismissed on the grounds that N.C. Natural is seeking to increase its base period margin outside the context of a general rate case.

Calvin B. Wells, Vice President of North Carolina Natural Gas Corporation, testified concerning the calculation of the proposed Curtailment Tracking Rate. He stated that the CTR includes a gross rate of $.0702 per mcf applicable to the period April 1 through October 31, 1976, a reduction of $.0219 per mcf to refund overcollections through March 31, 1976, and $.0017 per mcf to recover undercollections for the period April 1 through June 30, 1976. Mr. Wells also stated that the $.0702 rate was calculated using a base period margin of $11,549,778, which represents the Company's actual margin for the year ended September 30, 1974, instead of $10,232,649, which was erroneously computed.

On cross-examination by counsel for CF Industries, Mr. Wells testified that N.C. Natural's rate of return on equity per books, at May 31, 1976, was 14.34%, which was achieved with a CTR calculated on a $10,232,000 base period margin. Mr. Wells further testified that total overcollections under the CTR through March 31, 1976, were $632,758, which N.C. Natural proposes to refund over a 12-month period, and that if CF Industries receives no gas during the winter it would receive no refund for that period.

Mr. Wells stated, on cross-examination by the Attorney General, that at no time since Commission approval of the

CTR in January 1975 has the Company earned less than the 14.22% return on common equity approved in its last general rate case.

Daniel M. Stone, Utilities Engineer in the Gas Section of the Commission Staff, testified that the Engineering Staff analyzed the application and exhibits, cross-checking volume data and statistics with comparable information contained in Commission records, and computed the CTR. The Staff verified the calculation of the $.0500 per mcf charge and recommended that it be approved.

Donald E. Daniel, Coordinator of the Gas and Water Section of the Commission's Accounting Division, testified that the Staff reviewed and analyzed the exhibits submitted by the Company, including the calculation of each component of the CTR. Mr. Daniel stated that, in his opinion, the base period margin should not be adjusted since through May 31, 1976, there has been no erosion of earnings below the rate of return found fair for the Company in its last general rate case. He further stated that he disagreed with the Company's computation of the adjusted base period margin. Mr. Daniel testified that, calculated with the original base period margin, the new CTR would be $.0408 per mcf.

Mr. Wells, testifying on rebuttal, stated that for the year ended September 30, 1974, the test period in N.C. Natural's last general rate case, a base period margin of $12,127,000 would have been required in order to produce the 14.22% return on equity allowed at that time.

Based on the foregoing, the application filed by N.C. Natural, and the entire record in this matter, 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. That the application in this docket is properly before the Commission pursuant to the Commission's Orders in Docket No. G-21, Subs 128 and 128A wherein the Commission approved a Curtailment Tracking Rate (CTR) to allow N.C. Natural to track the revenue effects of increased or decreased curtailment.

3. That by this application N.C. Natural is seeking to reduce its CTR from $.0623 per mcf to $.0500 per mcf on all rate schedules effective June 18, 1976.

4. That the $.0500 rate per mcf consists of the following:

(a) $.0702 per mcf for the current tracking increment,

(b) $.0219 per mcf reduction to refund overcollections calculated through March 31, 1976, and

(c) $.0017 per mcf to cover undercollections occurring between April 1 and June 30, 1976.

5. That the base period margin originally approved for N.C. Natural was computed incorrectly.

6. That the corrected base period margin proposed by N.C. Natural for purposes of calculating the current tracking increment is $11,549,778.

7. That the procedures set forth in Appendix A attached hereto for calculation of the CTR in this proceeding are just and reasonable.

Whereupon, the Commission reaches the following

CONCLUSIONS

In its Order Establishing Rates for N.C. Natural issued December 12, 1974, in Docket No. G-21, Sub 128, the Commission recognized that, because of the uncertainty in future availability of gas supplies, it was impossible to accurately forecast future revenues and expenses for the Company. The Commission therefore concluded that N.C. Natural's proposed curtailment tracking adjustment rate (CTR) was desirable as a means of allowing the Company to maintain a base period margin (the difference between its revenues and the cost of purchased gas plus gross receipts taxes) thereby avoiding the necessity of a general rate case each time the level of curtailment changes.

Since the CTR is a rate set for the future, it is necessarily based on projected volumes of gas. The CTR approved for N.C. Natural provides that the Company shall file rate schedules and revisions every six months reflecting the actual effect of changes in curtailment on the margin. The CTR is then adjusted or "trued up" to reconcile actual experience with projected experience at the time of the last filing. In the future, as curtailment decreases and natural gas supplies to North Carolina improve, the CTR will be reduced.

The Commission is of the opinion that the precision with which the CTR tracks increases or decreases in curtailment depends upon the accuracy of the estimated volumes of gas for sale in the future. Accordingly, the Commission concludes that the use of both historical and future Transco entitlement periods provides the best estimate of volumes at the time of filing and should serve as the basis for the CTR calculation in the instant case. The Commission also concludes that the amounts heretofore collected by N.C. Natural $.0623 per mcf CTR rate, to the extent they exceed such amounts as would have been collected by N.C. Natural

had the CTR been calculated in accordance with Appendix A to this Order, are unjust and unreasonable and should be refunded. Further, the Commission concludes that, since many of the customers who paid the overcollections may not have gas service this winter due to the increase in curtailment, they will not receive their fair share of the refund. The Commission therefore concludes that these amounts should be refunded during the summer period.

Finally, the Commission concludes that the current and future tracking increments should be calculated using the corrected base period margin of $11,549,778. N.C. Natural has not sought to make this correction retroactive to its original CTR filing nor would the Commission approve such an adjustment. The Commission is of the opinion that errors in computation, whether they are in the Company's favor or not, should be corrected in order that the curtailment tracking rate may be properly applied in the future.

FURTHER CONCLUSION

The Commission takes judicial notice of the fact that the rate in question in this proceeding has never been calculated to the complete satisfaction of the Company, the Attorney General or the Commission Staff. The record in Docket No. G-21, Sub 128A and Sub 128B, reveals certain inequities both to N.C. Natural and to its customers. Contrary to the Commission's original intent in establishing the CTR, this rate has never been subjected to an absolute "true up." The Commission is of the opinion that this should now be done. Accordingly, the Commission concludes that the adjustments to the CTR approved herein are just and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application of North Carolina Natural Gas Corporation to reduce its curtailment tracking adjustment rate to $.0500 per mcf effective June 16, 1976, be, and hereby is, denied.

2. That N.C. Natural shall file revised tariffs, in accordance with Appendix A attached hereto, to be effective as of the original filing date and shall implement the refund provisions thereof within 60 days of the date of this Order.

3. That the base margin for all future CTR filings shall be $11,549,778.

4. That N.C. Natural shall file within 60 days after the implementation of the provisions set forth in Paragraphs 2 and 3 above a report accounting for the distribution of refunds and overcollections.

5. That, to the extent not modified by the provisions of Appendix A herein, the approved method of calculating N.C. Natural's CTR shall remain unchanged.

6. That N.C. Natural shall give the Commission 30 days' notice of all future changes in the CTR.

7. That N.C. Natural shall give appropriate notice to its customers of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 22nd day of September, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
Docket No. G-21, Sub 128B

The following steps and procedures shall be used in implementing the Commission Order in this docket:

1. Historical volumes for the 5-month period, November 1, 1975, through March 31, 1976, plus estimated future volumes for the 7-month period April 1, 1976, through October 31, 1976, shall be used for purposes of calculating the CTR rate to be effective July 1, 1976. Estimated volumes shall include any emergency purchases.

2. A "true" CTR rate shall be calculated for the period January 21, 1975, through January 20, 1976, based on actual curtailment for the period. An adjustment for the period shall then be calculated by determining the difference between the actual revenue from CTR rates in effect and the pro forma revenues at the "true" CTR rate based on actual billed volumes.

3. A "true" CTR rate shall be calculated for the period April 1, 1975, through March 31, 1976, based on actual curtailment for the period. An adjustment for the period January 21, 1976, through March 31, 1976, shall then be calculated by determining the difference between the actual revenue from the CTR rate in effect for that period and the pro forma revenue at the "true" CTR rate based on actual billed volumes.

4. An adjustment shall be calculated for the period April 1, 1976, through July 1, 1976, due to the time lag in implementing rates. This adjustment shall be the difference between the $.0623 rate in effect and the rate calculated in item 1. above multiplied by the volumes sold during the period April 1, 1976,

through June 30, 1976. This adjustment shall be applicable to bills rendered on and after July 1, 1976.

5. The adjustment determined in 2. and 3. above shall be allocated by priorities based on the volumes sold for the 12-month period ended March 31, 1976. Based on this allocation, the overcollection shall be refunded as follows:

   (a) In priorities A-Q, each customer shall receive a credit to his bill or a refund check.

   (b) A rate shall be calculated to flow back the remaining balance of the adjustment to the R priority over a 12-month period effective July 1, 1976.

DOCKET NO. G-21, SUB 128

PURRINGTON, COMMISSIONER, DISSENTING IN PART: I dissent to that part of the Order which allows an increase in base margin from $10,232,649 to $11,549,778 and calculates the new CTR on that basis.

First, approval of a change in margin will affect the Company's overall rate of return by allowing recovery of additional revenue. Such matters are more properly the subject of a general rate proceeding.

Secondly, the CTR was originally adopted by this Commission as an extraordinary measure to provide protection to the natural gas utilities from the erosion of normal profits due to Transco curtailments. Although erroneously computed, experience has shown that use of the existing margin has accomplished the Commission's objective. The evidence in the record clearly indicates that, since the Commission approved the CTR with a base margin of $10,232,649, there has been no erosion of earnings below the 14.22% return on common equity approved for the Company in its last general rate case. In fact, the Company has earned and continues to earn in excess of that return. To increase the margin by 1.3 million dollars would increase the Company's rate of return even further above the rates approved as just and reasonable.

J. Ward Purrington, Commissioner

COMMISSIONER HARVEY CONCURS IN THIS DISSENT.

W. Scott Harvey, Commissioner

DOCKET NO. G-21, SUB 147

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>By North Carolina Natural Gas Corporation<br>Application for An Adjustment of Its<br>Rates and Charges to Recover Its Costs<br>of Exploration in Approved Programs | ) | ORDER APPROVING<br>TRACKING<br>INCREASE |

BY THE COMMISSION: On 26 June 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development.

On 4 December 1975, North Carolina Natural Gas Corporation (N.C. Natural) filed an application in Docket No. G-21, Sub 147, seeking authority to adjust its rates and charges to recover all costs incurred as of 30 September 1975 in exploration and development ventures approved by the Commission.

On 11 December 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that participation in the financing of such ventures be in the ratio of 75 percent customer funds and 25 percent stockholder funds.

On 17 December 1975, North Carolina Natural filed revised exhibits in Docket No. G-21, Sub 147, showing the contribution by stockholders of 25 percent of exploration costs incurred as of 30 September 1975 and proposing an increase of 3.72 cents per MCF to all rate schedules.

Since, pursuant to the Commission's Order of 26 June 1975 in Docket No. G-100, Sub 22, all amounts collected under the proposed increase will be kept in separate accounts and offset by costs, the Commission finds and concludes that the proposed increase will not result in an increase in North Carolina Natural's rate of return over the rate of return most recently approved for the company in a general rate case.

Upon review of said application and revised exhibits, the Commission therefore finds and concludes that North Carolina Natural should be allowed to track 75 percent of its costs incurred between 26 June 1975 and 30 September 1975 in approved exploration programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the proposed rate adjustments in the application of North Carolina Natural Gas Corporation in the above docket shall become effective on all bills rendered on or after 1 January 1976.

That North Carolina Natural shall establish an account to record the revenue received from this increase in rates so that the Commission can determine that the revenues collected equate to the amount expended in approved exploration programs.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 147

PURRINGTON, COMMISSIONER, DISSENTING: As stated in prior Order, I am opposed to compelling any involuntary investment by rate payers in exploration ventures undertaken by the Company. In my view the rates approved herein constitute such an involuntary investment and should not be allowed.

J. Ward Purrington, Commissioner

DOCKET NO. G-21, SUB 147

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application by North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges to Recover its Costs of Exploration in Approved Programs | SUPPLEMENTAL ORDER APPROVING TRACKING INCREASE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 16, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney, Tenney I. Deane, Jr., George T. Clark, Jr., J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, P. O. Box 1688, Fayetteville, North Carolina 28302

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, P.O. Box 629, Raleigh, North Carolina

BY THE COMMISSION: On June 26, 1976, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. In this Order the Commission approved the Graham-Chandler drilling program and authorized the North Carolina gas utilities as a group to invest in the program, either directly or through wholly owned subsidiaries.

By Order dated August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders dated August 13, 1975, the Commission approved the Enterprise Resources limited partnership drilling program and the Transco-McMoRan joint venture drilling program for similar investment.

On December 4, 1975, North Carolina Natural Gas Corporation (North Carolina Natural) filed an Application in Docket No. G-21, Sub 147, seeking authority to adjust its rates and charges to recover all costs incurred as of September 30, 1975, in these exploration and development ventures approved by the Commission.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates for costs incurred in such ventures be limited to seventy-five percent (75%) of such costs with the remaining twenty-five percent (25%) to be contributed from stockholder funds.

On December 17, 1975, North Carolina Natural filed revised exhibits in Docket No. G-21, Sub 147, showing the contribution by stockholders of twenty-five percent (25%) of exploration costs incurred as of September 30, 1975, and proposing an increase of $.0372 per Mcf to all rate schedules.

Together with its filing of December 4, 1975, North Carolina Natural filed the following data:

Exhibit 1 - The present rates of Petitioner are as filed in Docket No. G-21, Sub 144, and made a part hereof by reference

Exhibit 2 - Schedule of the rates and charges proposed by the Petitioner in this Docket

Exhibit 3 - Statement of original cost rate base

Exhibit 4 - Statement of present fair value rate base

Exhibit 5 - Statement showing plant balances and accrued depreciation balances and depreciation rates

Exhibit 6 - Statement of materials and supplies necessary for operation of Petitioner's business

Exhibit 7 - Statement showing amount of cash working capital which Petitioner finds necessary to keep on hand

Exhibit 8 - Statement of net operating income for return for twelve months ending September 30, 1975

Exhibit 9 - Statement showing rate of return on rate base and net operating income

- Statement of costs incurred and revenue received in exploration programs and computation of rate adjustment

Exhibit 10 - Balance sheet and income statement for the year ended September 30, 1975

Exhibit 11 - Statement showing rate of return on rate base

Exhibit 12 - Statement showing rate of return on equity

Exhibit 13 - Copy of Notice to Public

North Carolina Natural later filed Affidavits of Publication of the Notice (Exhibit 13 above) showing the publication in newspapers of general circulation in the service territory of the Company.

On January 5, 1976, the Commission issued its Order allowing the proposed rate adjustments to become effective on bills rendered on or after January 1, 1976.

On February 3, 1976, the Attorney General of North Carolina filed a Notice of Appeal and Exceptions to the Order of January 5, 1976, and on March 3, 1976, North Carolina Natural filed a Motion for Hearing before the Commission on the Exceptions of the Attorney General.

By Order of March 5, 1976, the Commission allowed the Motion and consolidated this Docket for hearing on March 16,

1976, with related dockets involving Piedmont Natural Gas Company (Docket No. G-9, Sub 152) and Public Service Company (Docket No. G-5, Sub 116).

The matter came on for hearing as scheduled with all parties present. Upon motion by North Carolina Natural, the Commission noted that it had taken judicial notice of the Orders Establishing Natural Gas Exploration Rules in Docket No. G-100, Sub 22, and the further Orders approving the four drilling programs set out above and stated that the record in this Docket No. G-21, Sub 147, would include North Carolina Natural's Application and Exhibits.

Also, at the hearing the Attorney General moved that the Commission declare Docket No. G-21, Sub 147, a general rate case or a complaint proceeding. The Commission denied the motion and ruled that the Docket was not a general rate case.

Based on the Orders of the Commission noted above, the Application and Exhibits as filed, and the entire record in this matter, 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. That the test period used in this proceeding was the twelve-month period ending September 30, 1975.

3. That the rates and charges which North Carolina Natural is seeking to put into effect in this proceeding are $.0372 per Mcf to all customers and will recover over the six months' period from January 1, 1976, to June 30, 1976, seventy-five percent (75%) of the reasonable costs incurred by North Carolina Natural in Commission-approved exploration programs, such costs having been incurred between June 26, 1975, and September 30, 1975.

4. That all the expenditures which North Carolina Natural is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

5. That the Exhibits filed by North Carolina Natural show the following:

(i) The original cost of North Carolina Natural's property used and useful in providing service to the public is $45,805,473 (Exhibit 3).

(ii) The fair value of North Carolina Natural's property used and useful in providing service to the public is $71,035,768 (Exhibit 4).

(iii) North Carolina Natural's revenues under rates in effect prior to the increase requested in this Docket are estimated at $40,949,445 (Exhibit 8).

(iv) North Carolina Natural's revenues under the proposed rates are estimated at $41,359,997 (Exhibits 8 and 9 (B) (1)).

(v) North Carolina Natural's reasonable operating expenses are approximately $36,048,321 before expenditures in connection with Commission-approved exploration programs (Exhibit 9) and approximately $36,458,873 after including seventy-five percent (75%) of such expenditures (Exhibit 9 and 9(B) (1)).

(vi) After accounting adjustments the proposed rates will produce rates of return on original cost net investment of 8.53% and on fair value rate base of 5.5% (Exhibit 9).

(vii) After accounting adjustments the proposed rates will produce rates of return on end of period common equity of 13.51% and on fair value equity of 8.01% (Exhibit 12).

The rates of return on original cost and equity found to be just and reasonable by the Commission in its Order in Docket No. G-21, Sub 90, the last general rate case, and those determined by the Commission in this Docket are as follows:

| | Docket No. G-21 Sub 90 | September 30, 1975 Per Company |
|---|---|---|
| On investment | 8.75% | 8.53% |
| On equity | 14.22% | 13.51% |

6. That, after adjustment for the proposed increased rates applied for by North Carolina Natural herein, the rates of return on end of period investment and on equity do not exceed those found just and reasonable by the Commission in its general rate case Order issued March 7, 1973.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage exists in North Carolina. The five natural gas distribution companies are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their natural gas supply. Transco's system-wide deficiencies have made it difficult for the gas utilities serving North Carolina to meet the needs of their high priority customers. Unless these utilities are able to obtain additional supplies of gas, they will be unable to render adequate and efficient service.

Extensive studies and investigations of alternate methods of increasing the supply of natural gas have shown that the quickest, most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The State itself produces no natural gas, and the relatively low level of interstate natural gas prices has suppressed exploration efforts elsewhere.

It is under trying circumstances such as these that considered judgment is required. Not to take unusual action would result in a questionable use of that judgment. The Commission therefore concludes that, under prevailing conditions, expenditures for exploration as herein approved are just and reasonable, in the public interest, and required by public convenience and necessity.

The Commission's General Order in Docket No. G-100, Sub 22, establishes a procedure for prior approval of exploration and drilling programs to be participated in by the natural gas utilities operating in the State and further provides for the filing of rates which will recover the reasonable costs incurred in such exploration and drilling programs together with exhibits setting out the data required by North Carolina General Statute 62-133. The Order further provides that, if, after review and analysis of data filed by the North Carolina utility as described therein, the Commission concludes that the rates will not result in an increase in the Company's rate of return on end of period investment or an increase in the Company's rate of return on equity as approved by this Commission in the Company's last general rate case, the Commission may allow to become effective the increase in rates attributable to seventy-five percent (75%) of the reasonable costs incurred in Commission-approved exploration and drilling programs. The Commission is of the opinion that the Petition, Exhibits, and the filings herein meet the requirements of G.S. 62-133 and the Order of the Commission entered in Docket No. G-100, Sub 22, for recovery of seventy-five percent (75%) of the costs incurred in approved exploration and drilling programs.

Finding that in this proceeding the rates of return on end of period investment and on common equity do not exceed the returns allowed North Carolina Natural in its last general rate proceeding in Docket No. G-21, Sub 90, issued March 7, 1973, the Commission is of the opinion that no further hearing is necessary or required and that the increase in rates applied for by North Carolina Natural to become effective January 1, 1976, is just and reasonable and should be permitted to become effective as filed.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of January 5, 1976, is affirmed except as modified herein and the Exceptions of the Attorney General are overruled.

2. That North Carolina Natural be, and hereby is, authorized to increase its rates to all its customers by $.0372 per Mcf effective for bills rendered on and after January 1, 1976.

3. That North Carolina Natural shall establish an account to record the revenue received from this increase in rates in such manner that the Commission can determine that the revenues collected from such rate increase are equal to seventy-five percent (75%) of the reasonable costs incurred in approved exploration and drilling programs.

4. That North Carolina Natural account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

5. That the attached notice, Appendix "A," be mailed to all customers along with their next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of April, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"

Upon application of North Carolina Natural Gas Corporation to recover 75% of costs incurred between June 26, 1975, and September 30, 1975, in programs of natural gas exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates in all bills rendered on or after January 1, 1976, by $.0372 per Mcf on all rate schedules.

DOCKET NO. G-21, SUB 147

PURRINGTON, COMMISSIONER, DISSENTING: By allowing the Company to pass through to the consumer its costs of investment in gas exploration schemes, the source of capital funds and the attendant risks are shifted from the investor to the consumer. In a free enterprise economy, investment decisions must be voluntary not, as here, imposed by regulatory authority. In my view, this Order compels the consumer to become an involuntary investor in one of the most speculative enterprises known, and the Commission lacks authority to do so.

J. Ward Purrington, Commissioner

DOCKET NO. G-21, SUB 153

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges | ) ORDER APPROVING<br>) TRACKING INCREASE |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, July 13, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, J. Ward Purrington, W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Post Office Box 1688, Fayetteville, North Carolina 28302

For the Intervenors:

E. D. Gaskins, Jr., Charles Meeker, Sanford, Cannon, Adams, McCullough, Attorneys at Law, Post Office Box 389, Raleigh, North Carolina 27609
For: CF Industries, Inc., and
Farmers Chemical Association, Inc.

A. E. Cascino, Attorney at Law, Salem Lake Drive, Long Grove, Illinois 60047
For: CF Industries, Inc., and
Farmers Chemical Association, Inc.

For the Attorney General:

Jesse C. Brake, Associate Attorney General, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 26, 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. Rule R1-17(h) established therein provides for the formation of a committee representing the gas utilities, the Commission, and the intervenor cities of Wilson, Rocky Mount, Greenville, and Monroe to select exploration projects for Commission approval. Once a project is approved by the Commission, the utilities are authorized to expend funds for such project. On or before June 1 and December 1 of each year, each utility must file with the Commission a statement of costs incurred and revenues received from the projects during the six-month period ended the previous March 31 or September 30, respectively. Along with such filing, the utility may request an increase in its rates to recover during the next six months its reasonable costs less revenues. If such revenues exceed such expenses, the utility must file to reduce its rates to amortize the difference over the next six-month period.

In its Order of June 26, 1975, the Commission approved the Graham-Chandler (now Carolina Gas Exploration Company) drilling program and authorized the North Carolina gas utilities as a group to participate in the program, either directly or through wholly-owned subsidiaries. By Order issued August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders issued August 13, 1975, the Commission approved the Enterprise Resources limited partnership (ERI, Ltd.) drilling program and the Transco-McMoRan (Transmac) joint venture drilling program for similar participation.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates of costs incurred in such ventures be limited to 75% of such costs with the remaining 25% to be contributed from stockholder funds.

By Order issued January 5, 1976, in Docket No. G-21, Sub 147, the Commission approved an increase of $.0372 per mcf to all rate schedules allowing North Carolina Natural Gas Corporation (hereinafter referred to as N.C. Natural or the Company) to track 75% of its exploration and development costs incurred between June 26 and September 30, 1975. This Order was affirmed by Supplemental Order issued April 8, 1976.

On July 1, 1976, N.C. Natural filed in Docket No. G-21, Sub 153, an application pursuant to Commission Rule R1-17(h) seeking authority to increase its exploration tracking rate by $.0205 per mcf effective July 15, 1976, through December 31, 1976, in order to recover 75% of its costs incurred during the six-month period ended March 31, 1976, in approved exploration and development programs. N.C. Natural

proposes to adjust for any over or under collections prior to July 15, 1976, in its exploration tracking filing for the six-month period ending September 30, 1976.

With its application, N.C. Natural filed the following data:

| | |
|---|---|
| Exhibit 1 | - Schedule of present rates |
| Exhibit 2 | - Schedule of proposed rates |
| Exhibit 3 | - Statement of original cost rate base |
| Exhibit 4 | - Statement of fair value rate base |
| Exhibit 5 | - Statement showing plant balances, accrued depreciation, and depreciation rates |
| Exhibit 6 | - Statement of materials and supplies |
| Exhibit 7 | - Statement of cash working capital |
| Exhibit 8 | - Statement of operating income for return for 12 months ended March 31, 1976 |
| Exhibit 9 | - Statement showing accounting and pro forma adjustments to operating revenues and expenses and end of period net investment |
| | - Statement of costs incurred in exploration programs and computation of rate adjustment |
| Exhibit 10 | - Balance sheet and income statement for the year ended March 31, 1976 |
| Exhibit 11 | - Statement showing rates of return on original cost rate base and fair value rate base |
| Exhibit 12 | - Statement showing returns on original cost common equity and fair value equity |

On July 2, 1976, the Commission issued its Order setting the matter for hearing on July 13, 1976, requiring public notice, and suspending the proposed surcharge pending the filing by N.C. Natural of an Undertaking to refund such amounts collected thereunder as might be found unjust and unreasonable. The Commission therein concluded that the matter is not a general rate case.

On July 2, 1976, the Attorney General filed Notice of Intervention and Motion to Dismiss and Alternative Motion for Hearing, Notice and Suspension. By Order issued July 6, 1976, the Commission recognized the Intervention of the Attorney General and denied his motions.

On July 9, 1976, counsel for CF Industries, Inc., and Farmers Chemical Association, Inc., filed a Petition for Leave to Intervene. When the matter came on for hearing, the Chairman, Mr. Deane, ruled that said Petition be allowed.

The Attorney General moved that the Commission declare the scope of the hearing. The Chairman ruled that this is a case confined to the reasonableness of a specific single rate, namely, a surcharge by which the Company seeks to recover 75% of costs incurred in Commission-approved exploration and development programs. The Chairman further ruled that the proceeding was conducted in accordance with Commission Rule R1-17(h), which was established in Docket No. G-100, Sub 22, pursuant to the Commission's rulemaking authority conferred by G.S. 62-30, 31, 32, and 130.

Earl C. Chambers, Senior Vice President - Gas Supply and Technology for Piedmont Natural Gas Company and Acting Chairman of the Exploration Committee formed pursuant to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, testified and offered an exhibit outlining the results of participation by the gas utilities in approved exploration programs: Carolina Gas, Transmac, Transco-Mosbacher, and ERI, Ltd. Chambers Exhibit 1 shows that through June 30, 1976, the five North Carolina gas utilities have spent $6,044,914 in exploration and development programs. Proved reserves discovered to date are 4,955,095 mcf of gas and 359,690 bbls. of oil with a total value of $9,012,398; probable reserves are 5,855,310 mcf and 333,345 bbls. worth $9,615,442.

On cross-examination by counsel for CF Industries, Mr. Chambers testified that the utilities hope to start getting some of the gas by January of 1977 and project an eight-year deliverability from the wells. Mr. Chambers further testified that it is difficult to estimate expenses to bring in the gas over the next eight years since a number of development wells, all of which are expected to be good, will be drilled, thus bringing down the overall cost.

Jerry T. Roberts, Secretary-Treasurer of the North Carolina Textile Manufacturers' Association, testified that textile manufacturers and fiber producers employ approximately 40% of the State's manufacturing work force and are almost entirely dependent on natural gas for the manufacturing and finishing of their products. Mr. Roberts stated that the textile manufacturers support the gas distributors' participation in exploration programs and their proposal to increase rates to cover the costs.

Robert Cameron Cook, representing Burlington Industries, testified that his company is a large user of natural gas, is very interested in the exploration programs, and supports them totally. Mr. Cook further testified that costs of such programs should be recovered on the basis of usage, with everyone paying his pro rata share, since all users will

benefit if the programs are successful. In response to questioning by the Attorney General, Mr. Cook stated that purchasing gas in the field and transporting it to North Carolina is not a very acceptable alternative to exploration programs due to the costs and risks involved.

Calvin B. Wells, Vice President of North Carolina Natural Gas Corporation, testified that he calculated the proposed surcharge as follows: he determined the total funds advanced by N.C. Natural to exploration and drilling programs during the period October 1, 1975, through March 31, 1976, and other direct costs incurred during this period, took 75% of these costs, and added interest cost applicable to the unrecovered balance of the customer's portion of exploration and drilling costs; he estimated the volumes available for sale during the period July 15, 1975, through December 31, 1976; and he divided the total cost by estimated volumes to arrive at the rate. Mr. Wells also presented an exhibit showing the status of exploration programs in which N.C. Natural is participating as of June 30, 1976.

On cross-examination by counsel for CF Industries, Mr. Wells conceded that as of July 15, 1976, N.C. Natural will have billed customers approximately $144,000 more than the $520,861 which the Commission had allowed it to recover under the $.0372 per mcf exploration tracking surcharge approved in Docket No. G-21, Sub 147. Mr. Wells further stated, however, that the over collections would be rolled into or refunded to customers in N.C. Natural's next surcharge filing and in the meantime would reduce the amount of unrecovered costs on which interest is computed. Mr. Wells also testified on cross-examination that the amount of future six-month surcharges to recover exploration and drilling costs will depend upon the volumes of gas available, which are not known at this time.

Donald E. Daniel, Coordinator of the Accounting Gas and Water Section of the Commission Staff, testified that the Staff reviewed and analyzed the exhibits and supporting data submitted by N.C. Natural. The Staff determined that the expenditures reported by the Company were properly related to Commission-approved exploration programs and were expended during the period October 1, 1975, through March 31, 1976, and that the application was otherwise in conformity with Rule R1-17(h).

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Engineering Staff, testified that the Staff analyzed the application and exhibits and cross-checked volume data and statistics with comparable information contained in Commission records. Based upon its examination of the application and exhibits, the Staff verified N.C. Natural's calculation of the proposed tracking rate.

Based on the evidence presented at the hearing, the application and exhibits filed by N.C. Natural, and the entire record in this matter, 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. That as of June 30, 1976, a total of 51 wells have been drilled in the four Commission-approved exploration programs resulting in 37 dry wells, 11 gas wells, and 3 oil wells. N.C. Natural is participating in the four programs as follows: Carolina Gas - 27%; Transmac - 6.250%; Transco-Mosbacher - 5.5556%; and ERI, Ltd. - 7.50%.

3. That a total of $6,044,914 has been spent in these programs by the five North Carolina gas utilities. Of this amount, N.C. Natural has spent $1,766,478. Estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 4,955,095 mcf; probable reserves - 5,855,310 mcf; possible reserves - 8,831,253 mcf; and total reserves - 19,641,658 mcf. N.C. Natural's shares are 1,503,000 mcf; 1,773,000 mcf; 2,660,000 mcf; and 5,936,000 mcf, respectively. Estimated oil reserves from the four programs for all gas companies are as follows: proved reserves - 359,690 bbls.; probable reserves - 333,345 bbls.; possible reserves - 401,719 bbls.; and total reserves - 1,094,754 bbls. N.C. Natural's shares are 112,000 bbls.; 104,000 bbls.; 124,000 bbls.; and 340,000 bbls., respectively.

4. That estimated values of the oil and gas reserves from the four programs for all gas companies are as follows: proved reserves - $9,012,398; probable reserves - $9,615,442; possible reserves - $13,362,643; and total reserves - $31,990,483. The values to N.C. Natural are $2,766,360; $2,946,120; $4,058,720; and $9,771,200, respectively.

5. That the test period used in this proceeding is the 12 months ended March 31, 1976.

6. That the rate which N.C. Natural is seeking to put into effect in this proceeding is $.0577 per mcf to all customers which will enable N.C. Natural to recover over the period from July 15, 1976, to December 31, 1976, 75% of the reasonable costs incurred by the Company between October 1, 1975, and March 31, 1976, in Commission-approved exploration programs.

7. That all of the expenditures which N.C. Natural is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural

gas and are ordinary and reasonable expenses of a public utility gas distribution company.

8. That the exhibits filed by N.C. Natural show the following:

(i) The original cost of N.C. Natural's property used and useful in providing service to the public is $46,139,337. (Exhibit 3)

(ii) The fair value of N.C. Natural's property used and useful in providing service to the public is $70,826,436. (Exhibit 4)

(iii) N.C. Natural's revenues under rates in effect prior to the increase requested in this docket are estimated at $40,061,724. (Exhibit 9)

(iv) N.C. Natural's reasonable operating expenses are approximately $36,835,492 before expenditures in connection with the Commission-approved exploration programs. (Exhibit 9)

(v) As a result of expenditures in approved exploration programs, N.C. Natural has increased its ordinary and reasonable expenses by $789,573. (Exhibit 9)

(vi) After accounting and pro forma adjustments N.C. Natural's rate of return on end of period net investment is 6.97% and on fair value rate base is 4.54%. (Exhibit 11)

(vii) After accounting and pro forma adjustments N.C. Natural's rate of return on end of period common equity is 10.28% and on fair value equity is 4.57%. (Exhibit 12)

9. That the rates of return found just and reasonable by the Commission in Docket No. G-21, Sub 90, N.C. Natural's last general rate case, are as follows:

| | |
|---|---|
| End of period net investment | 8.75% |
| Fair value rate base | 7.57% |
| End of period common equity | 14.22% |
| Fair value equity | 8.74% |

10. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage continues to threaten the well-being of the citizens of North Carolina. The five natural gas distribution companies serving the State are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their supply of natural gas. Transco's system-wide deficiencies have made it difficult for these gas utilities to meet the needs of their high priority customers. Without additional supplies of gas, they will be unable to render adequate and efficient service.

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternate methods of increasing the supply of natural gas, that the most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The Commission therefore established a procedure whereby the North Carolina gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenses at six-month intervals.

The Commission is of the opinion that, while the precise effect on cost and volume of gas is not yet known, the evidence in this proceeding clearly shows that the ratepayers will ultimately receive substantial benefits. To alter the procedure established under Rule R1-17(h) at this time would be to deprive the ratepayers not only of additional supplies of natural gas which they helped to discover but also of a share in the profits they helped to produce.

Finding that the proposed rates will not result in N.C. Natural's rates of return on end of period net investment and on common equity exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the application and exhibits filed herein meet the requirements of Rule R1-17(h) for the recovery of 75% of the reasonable costs incurred by N.C. Natural during the period October 1, 1975, through March 31, 1976, in approved exploration and drilling programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That North Carolina Natural Gas Corporation be, and hereby is, authorized to continue until July 15, 1976, the collection of the $.0372 per Mcf exploration tracking surcharge approved in Docket No. G-21, Sub 147, in order to recover 75% of reasonable expenditures in Commission-approved exploration and development programs during the period of June 26, 1975, through September 30, 1975.

2. That N.C. Natural be, and hereby is, authorized to increase its exploration tracking surcharge to all customers by $.0205 per mcf effective on bills rendered on or after July 15, 1976, in order to recover 75% of reasonable

expenditures in Commission-approved exploration and development programs during the period October 1, 1975, through March 31, 1976.

3. That N.C. Natural shall establish an account to record the revenue received from this increase in such a manner that the Commission can determine that the revenues collected from such increase are equal to 75% of the reasonable amounts refunded in approved exploration and development programs during the period October 1, 1975, through March 31, 1976.

4. That N.C. Natural shall account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

5. That the attached notice, Appendix A, be mailed to all customers along with their next bills advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Upon application of North Carolina Natural Gas Corporation to recover 75% of costs incurred between October 1, 1975, and March 31, 1976, in programs of natural gas exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates for all bills rendered on or after July 15, 1976, by $.0205 per mcf on all rate schedules.

DOCKET NO. G-21, SUB 153

COMMISSIONER PURRINGTON, DISSENTING. Having dissented in previous dockets allowing recovery of costs associated with exploration drilling programs, I cannot concur in the decision here. In my opinion, the expenditures which North Carolina Natural Gas Corporation is seeking to recover are not ordinary and reasonable expenses of a public utility gas distribution company.

J. Ward Purrington, Commissioner

DOCKET NO. G-3, SUB 58B

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Pennsylvania and Southern Gas ) ORDER
Company, North Carolina Gas Service Division, ) ADJUSTING
for an Adjustment in Rates and Charges ) RATE

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on July 20, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, and W. Scott Harvey

APPEARANCES:

For the Applicant:

James T. Williams, Jr., Brooks, Pierce, McLendon, Humphrey and Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Intervenor:

Jerry B. Pruitt, Associate Attorney General, North Carolina Attorney General's Office, Justice Building, Post Office Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 12, 1976, Pennsylvania and Southern Gas Company, North Carolina Gas Service Division (hereinafter referred to as Penn and Southern or the Company), filed with the Commission schedules showing computation of an adjustment in the Curtailment Tracking Rate (CTR) approved for the Company in Docket No. G-3, Sub 58. Penn and Southern proposed to reduce its CTR from $.0714 per mcf to $.0721 per mcf effective May 15, 1976. On May 13, 1976, Penn and Southern filed revised schedules reducing the CTR from $.1714 per mcf to $.1031 per mcf. The Commission accepted the amended tariffs for filing.

Upon reconsideration of the application filed by Penn and Southern and the entire record in this docket, the Commission issued an Order on June 29, 1976, setting the

matter for hearing on July 20, 1976, and requiring notice to the public.

On July 6, 1976, the Attorney General filed Notice of Intervention in the above docket, and the Commission issued an Order recognizing said Intervention.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner, Mr. Purrington, ruled that this is a case confined to the reasonableness of a specific single rate, namely, the curtailment tracking rate, and involves questions which do not require a determination of the entire rate structure and overall rate of return. Commissioner Purrington further ruled that the proceeding was conducted pursuant to the Commission's rate-making authority conferred by G. S. 62-30, 31, 32, and 130.

Marshall Campbell, Assistant Secretary for Penn and Southern, testified that he prepared the Company's curtailment tracking filing and did so in conformity with the Commission's Orders in Docket No. G-3, Sub 58.

Donald E. Daniel, Coordinator of the Gas and Water Section of the Commission's Accounting Division, testified that the Accounting Staff received and analyzed the exhibits submitted by the Company, including the calculation of each component of the CTR. Mr. Daniel stated it is his belief that the filing is in conformity with the Commission's Orders and rulings on the Company's CTR.

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Staff, testified that the Engineering Staff analyzed the application and exhibits, cross-checking volume data and statistics with comparable information contained in Commission records, and computed the CTR. The Staff verified the calculation of the $.1031 per mcf charge and recommended that it be approved.

Based on the foregoing, the application filed by Penn and Southern, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. 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.

2. That the application in this docket is properly before the Commission pursuant to the Commission's Orders in Docket No. G-3, Subs 58 and 58A to allow Penn and Southern to track the revenue effects of increased or decreased curtailment.

3. That by this application Penn and Southern is seeking to reduce its CTR from $.1714 per mcf to $.1031 per mcf on all rate schedules effective May 15, 1976.

4. That the $.1031 rate per mcf consists of the following:

(a) $.2439 per mcf for the current tracking increment

(b) $.1408 per mcf reduction to refund overcollections and transportation revenues

Whereupon, the Commission reaches the following

CONCLUSIONS

In its Order Setting Rates for Penn and Southern issued March 1, 1975, in Docket No. G-3, Sub 58, the Commission recognized that, because of the uncertainty in future availability of gas supplies, it was impossible to accurately forecast future revenues and expenses for the Company. The Commission therefore directed Penn and Southern to file Curtailment Tracking Rate (CTR) as a means of allowing the Company to maintain a base period margin (the difference between its revenues and the cost of purchased gas plus gross receipts taxes) thereby avoiding the necessity of a general rate case each time the level of curtailment changed.

Since the CTR is a rate set for the future, it is necessarily based on projected volumes of gas. The CTR approved for Penn and Southern provides that the Company shall file rate schedules and revisions every six months reflecting the actual effect of changes in curtailment on the margin. The CTR is then adjusted or "trued up" to reconcile actual experience with the projected experience at the time of the last filing. In the future, as curtailment decreases and natural gas supplies improve, the CTR will be reduced.

The Commission further concludes that, since many of the customers who paid the overcollections referred to in Finding of Fact No. 4(b) may not have gas service this winter due to the increase in curtailment, they will not receive their fair share of the refund. The Commission therefore concludes that these amounts should be refunded during the summer period.

FURTHER CONCLUSION

The Commission takes judicial notice of the fact that the rate in question in this proceeding has never been calculated to the complete satisfaction of the Company, the Attorney General or the Commission Staff. The record in Docket No. G-3, Subs 58A and 58B reveals certain inequities both to Penn and Southern and to its customers. Contrary to

the Commission's original intent in establishing the CTR, this rate has never been subjected to a real "true up." The Commission is of the opinion that this should now be done. Accordingly, the Commission concludes that the adjustments to the CTR approved herein are just and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application of Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, to reduce its curtailment tracking rate from $.1714 per mcf to $.1031 per mcf be, and hereby is, approved in part and denied in part.

2. That Penn and Southern shall file revised tariffs in accordance with Appendix A attached hereto.

3. That Penn and Southern shall file within 60 days of the implementation of the provisions set forth in Paragraph 2 above a report accounting for the distribution of refunds and overcollections.

4. That, to the extent not modified by the provisions of Appendix A herein, the approved method of calculating Penn and Southern's CTR shall remain unchanged.

5. That Penn and Southern shall give the Commission 30 days' notice of all future changes in the curtailment tracking rate.

6. That Penn and Southern shall give appropriate notice to its customers of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 22nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
Docket No. G-3, Sub 58B

The following steps and procedures shall be used in implementing the Commission Order in this docket:

1. The margin variation of $308,465 and adjustment to margin variation of $178,109 filed by the Company are to be used.

2. A pure CTR rate shall be calculated as follows:

$$\frac{\$\ 308,465/.94}{1,345,561\ \text{mcf}} = \$.2439 \text{ per mcf}$$

3. The difference between the $.1031 rate subject to undertaking and the rate of $.2439 determined in 2. above shall be multiplied by the volumes on which the $.1031 has been billed to determine an undercollection.

4. An adjustment shall be calculated for the period April 1, 1976, through May 14, 1976, due to the lag in implementing rates. This adjustment shall be the difference between the $.1714 rate in effect during the period and the rate of $.2439 calculated in item 2. above multiplied by the volumes sold during the period April 1, 1976, through May 14, 1976. This adjustment shall be applicable to bills rendered on and after May 15, 1976.

5. The adjustment to margin variation of $178,109 in item 1. above less the undercollection determined in item 3. above shall be allocated by priorities based on the volumes sold for the 12-month period ending March 31, 1976. Based on this allocation, the overcollection will be refunded as follows:

   a. In priorities A-Q, each customer shall receive a credit to his bill or a refund check.

   b. A rate shall be calculated to flow back the remaining balance of the overcollection to the R priority over a 12-month period effective as of May 15, 1976.

DOCKET NO. G-3, SUB 70

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of<br>Application of Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, for an Adjustment of its Rates and Charges | ORDER APPROVING TRACKING INCREASE |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, July 13, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Commissioners Ben E. Roney, W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

James Williams, Jr., Brooks, Pierce, McLendon, Humphrey and Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Attorney General:

Jesse C. Brake, Associate Attorney General, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 26, 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. Rule R1-17(h) established therein provides for the formation of a committee representing the gas utilities, the Commission, and the intervenor cities of Wilson, Rocky Mount, Greenville, and Monroe to select exploration projects for Commission approval. Once a project is approved by the Commission, the utilities are authorized to expend funds for such project. On or before June 1 and December 1 of each year, each utility must file with the Commission a statement of costs incurred and revenues received from the projects during the six-month period ended the previous March 31 or September 30, respectively. Along with such filing, the utility may request an increase in its rates to recover during the next six months its reasonable costs less revenues. If such revenues exceed such expenses, the utility must file to reduce its rates to amortize the difference over the next six-month period.

In its Order of June 26, 1975, the Commission approved the Graham-Chandler (now Carolina Gas Exploration Company) drilling program and authorized the North Carolina gas utilities as a group to participate in the program, either directly or through wholly-owned subsidiaries. By Order issued August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders issued August 13, 1975, the Commission approved the Enterprise Resources limited partnership (ERI, Ltd.) drilling program and the Transco-McMoRan (Transmac) joint venture drilling program for similar participation.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery

by an increase in rates of costs incurred in such ventures be limited to 75% of such costs with the remaining 25% to be contributed from stockholder funds.

On June 14, 1976, Pennsylvania and Southern Gas Company (Pennsylvania and Southern, Penn and Southern, or Company), North Carolina Gas Service Division, filed in Docket No. G-3, Sub 70, an application pursuant to Commission Rule R1-17(h) seeking authority to increase its rates by $.0774 per mcf effective July 15, 1976, in order to recover 75% of its costs incurred during the six-month period ended March 31, 1976, in approved exploration programs.

With its application, Pennsylvania and Southern filed the following data:

Exhibit 1 - Present and proposed rate schedules

Exhibit 2 - Statement of original cost of plant in service at March 31, 1975

Exhibit 3 - Statement of fair value rate base at end of period March 31, 1975

Exhibit 4 - Statement showing accrued depreciation and depreciation rates

Exhibit 5 - Statement of materials and supplies

Exhibit 6 - Statement of cash working capital

Exhibit 7 - Statement showing accounting and pro forma adjustments, net operating income for return, and rates of return on original cost net investment for the year ended March 31, 1975

Exhibit 8 - Balance sheet as of March 31, 1975

Exhibit 9 - Income statement for the 12 months ended March 31, 1975

Exhibit 10 - Statement showing returns on equity for the year ended March 31, 1975

Exhibit 11 - Statement showing expenditures in approved exploration programs and computation of rate adjustment

On June 16, 1976, the Attorney General filed Notice of Intervention and Motion to Dismiss and Alternative Motion for Hearing, Notice and Suspension in the above docket. By Order issued June 21, 1976, the Commission recognized the Intervention of the Attorney General.

On June 21, 1976, the Commission issued an Order setting the application for hearing on July 13, 1976, requiring

public notice, and suspending the proposed tracking rate pending the filing by Pennsylvania and Southern of an Undertaking to refund any amounts collected thereunder which may be found unjust and unreasonable by the Commission.

On July 13, 1976, Pennsylvania and Southern filed an Undertaking which was approved by Commission Order of July 15, 1975.

Also, on July 13, 1976, Pennsylvania and Southern filed a Motion for Leave to Amend its application to delete from the requested rate increase all amounts expended by the Company prior to the Commission's Order of June 26, 1976, in Docket No. G-100, Sub 22, thereby reducing the proposed tracking rate to $.0755 per mcf. Said Motion was allowed by ruling of the Chairman, Mr. Deane, when the matter came on for hearing.

The Attorney General moved that the Commission declare the scope of the hearing. The Presiding Commissioner ruled that this is a case confined to the reasonableness of a specific single rate, namely, a surcharge by which the Company seeks to recover 75% of costs incurred in Commission-approved exploration and development programs. The Commissioner further ruled that the proceeding was conducted in accordance with Commission Rule R1-17(h), which was established in Docket No. G-100, Sub 22, pursuant to the Commission's rulemaking authority conferred by G.S. 62-30, 31, 32, and 130.

Earl C. Chambers, Senior Vice President - Gas Supply and Technology for Piedmont Natural Gas Company and Acting Chairman of the Exploration Committee formed pursuant to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, testified and offered an exhibit outlining the results of participation by the gas utilities in approved exploration programs: Carolina Gas, Transmac, Transco-Mosbacher, and ERI, Ltd. Chambers Exhibit 1 shows that through June 30, 1976, the five North Carolina gas utilities have spent $6,044,914 in exploration and development programs. Proved reserves discovered to date are 4,955,095 mcf of gas and 359,690 bbls. of oil with a total value of $9,012,398; probable reserves are 5,855,310 mcf and 333,345 bbls. worth $9,615,442.

H. B. Foster, President and General Manager of Statesville Brick Company, testified in his capacity as Chairman of the Energy Committee for the Brick Association of North Carolina. Mr. Foster stated that the Brick Association does not object to paying a reasonable surcharge for the development of new sources of natural gas and that it views the benefits to be derived from exploration programs as its best hope for relief in the foreseeable future. On cross-examination by the Attorney General, Mr. Foster stated that, given the relative size and lack of expertise of the brick companies in the State, the possibility of their buying gas

in place and having it shipped to North Carolina is virtually hopeless.

James R. Moore, Vice President - Construction Equipment and Energy for Hardee Food System, testified concerning his company's demand for natural gas. He stated that Hardee's uses an average of 1.5 billion btu's of gas energy per restaurant which, if replaced by electricity, would cost $1,947,000 instead of $531,000. Mr. Moore further stated that Hardee's, having taken steps to control utility costs and conserve natural gas, hopes the Commission will see that gas supplies are increased.

Jerry T. Roberts, Secretary-Treasurer of the North Carolina Textile Manufacturers' Association, testified that textile manufacturers and fiber producers employ approximately 40% of the State's manufacturing work force and are almost entirely dependent on natural gas for the manufacturing and finishing of their products. Mr. Roberts stated that the textile manufacturers support the gas distributors' participation in exploration programs and their proposal to increase rates to cover the costs.

Robert Cameron Cook, representing Burlington Industries, testified that his company is a large user of natural gas, is very interested in the exploration programs, and supports them totally. Mr. Cook further testified that costs of such programs should be recovered on the basis of usage, with everyone paying his pro rata share, since all users will benefit if the programs are successful. In response to questioning by the Attorney General, Mr. Cook stated that purchasing gas in the field and transporting it to North Carolina is not a very acceptable alternative to exploration programs due to the costs and risks involved.

C. B. Coulter, President of Pennsylvania and Southern Gas Company, testified concerning the application and exhibits in this docket. He offered an exhibit summarizing the activities of Rockingham Exploration Company, a subsidiary of Penn and Southern created for the purpose of participating in exploration and drilling programs. Mr. Coulter also presented testimony and exhibits with respect to consents and waivers obtained from Penn and Southern bondholders in order to make possible such participation. He stated that, in his opinion, if Penn and Southern were not allowed to recover a portion of its exploration and drilling expenses it would be in violation of its bond indentures.

Donald E. Daniel, Coordinator of the Gas and Water Accounting Section of the Commission Staff, testified that he reviewed the application and amended exhibits filed by Penn and Southern. He stated that the expenditures reported were properly related to Commission-approved programs and were in conformance with the Commission's Order in G-100, Sub 22.

Based on the evidence presented at the hearing, the application and exhibits filed by Penn and Southern, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. 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.

2. That as of June 30, 1976, a total of 51 wells have been drilled in the four Commission-approved exploration programs resulting in 37 dry wells, 11 gas wells, and 3 oil wells. Penn and Southern is participating in the four programs as follows: Carolina Gas - 2%; Transmac - .375%; Transco-Mosbacher - 0%; and ERI, Ltd. - .45%.

3. That a total of $6,044,914 has been spent in these programs by the five North Carolina gas utilities. Of this amount, Penn and Southern has spent $79,532. Estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 4,955,095 mcf; probable reserves - 5,855,310 mcf; possible reserves - 8,831,253 mcf; and total reserves - 19,641,658 mcf. Penn and Southern's shares are 68,297 mcf; 66,414 mcf; 106,825 mcf; and 241,536 mcf, respectively. Estimated oil reserves from the four programs for all gas companies are as follows: proved reserves - 359,690 bbls.; probable reserves - 333,345 bbls.; possible reserves - 401,719 bbls.; and total reserves - 1,094,754 bbls. Penn and Southern's shares are 6,238 bbls.; 5,240 bbls.; 6,249 bbls.; and 17,727 bbls., respectively.

4. That estimated values of the oil and gas reserves from the four programs for all gas companies are as follows: proved reserves - $9,012,398; probable reserves - $9,615,442; possible reserves - $13,362,643; and total reserves - $31,990,483. The values to Penn and Southern are $138,662; $125,521; $177,314; and $441,497, respectively.

5. That the test period used in this proceeding is the 12 months ended March 31, 1975.

6. That the rate which Penn and Southern is seeking to put into effect in this proceeding is $.0755 per mcf to all customers which will enable Penn and Southern to recover over the six-month period from July 1, 1976, to December 31, 1976, 75% of the reasonable costs incurred by the Company between June 26, 1975, and March 31, 1976, in Commission-approved exploration programs.

7. That all of the expenditures which Penn and Southern is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

8. That the exhibits filed by Penn and Southern show the following:

(i) The original cost of Penn and Southern's property used and useful in providing service to the public in North Carolina is $3,342,422. (Exhibits 2, 4, 5, and 6)

(ii) The fair value of Penn and Southern's property used and useful in providing service to the public is $3,730,188. (Exhibit 3)

(iii) Penn and Southern's revenues under rates in effect prior to the increase requested in this docket are estimated at $3,151,913. (Exhibit 7)

(iv) Penn and Southern's reasonable operating expenses are approximately $2,837,062 before expenditures in connection with Commission-approved exploration programs. (Exhibit 7)

(v) As a result of expenditures in approved exploration programs, Penn and Southern has increased its ordinary and reasonable expenses by $78,737. (Exhibit 11)

(vi) After accounting and pro forma adjustments Penn and Southern's rate of return on end of period net investment is 9.43% and on fair value rate base is 8.45%. (Exhibit 7)

(vii) After accounting and pro forma adjustments Penn and Southern's rate of return on end of period common equity is 10.89%. (Exhibit 10)

9. That the rates of return found just and reasonable by the Commission in Docket No. G-3, Sub 58, Penn and Southern's last general rate case, are as follows:

| | |
|---|---|
| End of period net investment | 10.12% |
| Fair value rate base | 8.12% |
| End of period common equity | 13.50% |
| Fair value equity | 9.02% |

10. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage continues to threaten the well-being of the citizens of North Carolina. The five natural gas distribution companies serving the State are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their supply of natural gas. Transco's system-wide deficiencies have made it difficult for these gas utilities to meet the needs of their high priority customers. Without additional supplies of gas, they will be unable to render adequate and efficient service.

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternate methods of increasing the supply of natural gas, that the most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The Commission therefore established a procedure whereby the North Carolina gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenses at six-month intervals.

The Commission is of the opinion that, while the precise effect on cost and volumes of gas is not yet known, the evidence in this proceeding clearly shows that the ratepayers will ultimately receive substantial benefits. To alter the procedure established under Rule R1-17(h) at this time would be to deprive the ratepayers not only of additional supplies of natural gas which they helped to discover but also of a share in the profits they helped to produce.

Finding that the proposed rates will not result in Penn and Southern's rates of return on end of period net investment and on common equity exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the application and exhibits filed herein meet the requirements of Rule R1-17(h) for the recovery of 75% of the reasonable costs incurred by Penn and Southern during the period October 1, 1975, through March 31, 1976, in approved exploration and drilling programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Penn and Southern Gas Company, North Carolina Gas Service Division, be, and hereby is, authorized to increase its rates to all customers by a $.0755 per mcf exploration tracking surcharge effective on bills rendered on or after July 15, 1976, in order to recover 75% of reasonable expenditures in Commission-approved exploration and development programs during the period June 26, 1975, through March 31, 1976.

2. That Penn and Southern shall establish an account to record the revenue received from this increase in such a manner that the Commission can determine that the revenues

collected from such increase are equal to 75% of the reasonable amounts refunded in approved exploration and development programs during the period June 26, 1975, through March 31, 1976.

3. That Penn and Southern shall account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

4. That the attached notice, Appendix A, be mailed to all customers along with their next bills advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 20th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Upon application by Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, to recover 75% of costs incurred between June 26, 1975, and March 31, 1976, in programs of exploration and development approved by the North Carolina Utilities Commission, the Commission approved an increase for all bills rendered on or after July 15, 1976, by $.0755 per mcf on all rates schedules.

DOCKET NO. G-3, SUB 70

COMMISSIONER PURRINGTON, DISSENTING: Having dissented in previous dockets allowing recovery of costs associated with exploration drilling programs, I cannot concur in the decision here. In my opinion, the expenditures which Pennsylvania and Southern Gas Company is seeking to recover are not ordinary and reasonable expenses of a public utility gas distribution company.

J. Ward Purrington, Commissioner

DOCKET NO. G-9, SUB 131D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of Piedmont Natural Gas<br>Company, Inc., for an Adjustment of<br>its Rates and Charges | )<br>)<br>) | ORDER<br>ADJUSTING<br>RATE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on July 20, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, and W. Scott Harvey

APPEARANCES:

For the Applicant:

Jerry W. Amos and James T. Williams, Jr., Brooks, Pierce, McLendon, Humphrey and Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Intervenor:

Jerry B. Fruitt, Associate Attorney General, North Carolina Attorney General's Office, Justice Building, Post Office Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 10, 1976, Piedmont Natural Gas Company, Inc. (hereinafter referred to as Piedmont or the Company), filed with the Commission schedules showing computation of a change in the Curtailment Tracking Adjustment (CTA) approved for the Company in Docket No. G-9, Sub 131. Piedmont proposed to increase its CTA by $.34138 per mcf effective June 1, 1976. On June 2, 1976, Piedmont filed revised schedules increasing the CTA by $.26145 per mcf. By letter dated June 3, 1976, the Commission accepted the amended tariffs for filing.

On June 24, 1976, the Attorney General of North Carolina filed a Notice of Intervention and a Motion to Rescind Approval and Set Hearing in the above docket. By Order issued June 25, 1976, the Commission recognized the Attorney General's Intervention.

Upon reconsideration of the application filed by Piedmont, the letter of approval, the Motion of the Attorney General, and the entire record in this docket, the Commission concluded that its approval of the amended tariffs filed by Piedmont on June 2, 1976, should be rescinded. By Order issued June 29, 1976, the Commission set the matter for hearing on July 20, 1976, and required notice to the public. The Commission ordered that any amounts theretofore

collected under the proposed CTA should be refunded unless the Company filed an Undertaking to refund such amounts as may later be found unjust and unreasonable. On July 1, 1976, Piedmont filed and the Commission approved such Undertaking.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner, Mr. Purrington, ruled that this is a case confined to the reasonableness of a specific single rate, namely, the curtailment tracking adjustment, and involves questions which do not require a determination of the entire rate structure and overall rate of return. Commissioner Purrington further ruled that the proceeding was conducted pursuant to the Commission's rate-making authority conferred by G. S. 62-30, 31, 32, and 130.

The Attorney General also moved (1) that the application filed by Piedmont be dismissed for failure to comply with the Commission's Order of April 8, 1976, in Docket No. G-9, Sub 148, requiring future curtailment tracking adjustment filings to be based on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period and (2) that the tariff be rescinded and the application dismissed on the grounds that the CTA is an illegal rate-making device. The motions were denied.

Everette C. Hinson, Vice President and Treasurer of Piedmont Natural Gas Company, testified concerning the origin and history of the CTA. He stated that it is necessary to annualize summer period sales in estimating volumes because the cumulative frequency curves and sales distributions with which the margin was computed in Docket No. G-9, Sub 131, are on an annual basis. On cross-examination by the Attorney General, Mr. Hinson explained that, under Piedmont's method of estimating volumes if the winter curtailment level is lower than the summer level, the CTA will be lower.

The Attorney General presented the testimony of William S. Jones, President of Boren Clay Products Company, who objected to the proposed rate increase. Mr. Jones stated that the cost of gas to North Carolina brick manufacturers places them at a competitive disadvantage since other brick companies in the southeast can purchase gas at 20% to 30% less cost. On cross-examination by counsel for Piedmont, however, Mr. Jones stated that he was aware that many of these competitors are supplied by Southern Natural Gas Company, which is not currently being curtailed.

Daniel M. Stone, Utilities Engineer in the Gas Section of the Commission Staff, testified that the Engineering Staff analyzed the application and exhibits, cross-checking volume data and statistics with comparable information contained in Commission records, and computed the CTA. The Staff

verified the calculation of the $.26145 per mcf increase in the CTA and recommended that it be approved.

Donald E. Daniel, Coordinator of the Gas and Water Section of the Commission's Accounting Division, testified that the Staff reviewed and analyzed the exhibits submitted by Piedmont, including the computations of the CTA.

On cross-examination by counsel for Piedmont, Mr. Daniel stated that whether the Company estimates future volumes based on the formula ordered in Docket No. G-9, Sub 148, or whether it annualizes summer entitlements makes no difference on an annual basis in the amount paid by the customers. On cross-examination by the Attorney General, Mr. Daniel stated that Piedmont's method of forecasting volumes results in a larger increase to the CTA and has a greater impact on the summer customers.

Based on the foregoing, the application filed by Piedmont, and the entire record in this matter, 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 application in this docket is properly before the Commission pursuant to the Commission's Orders in Docket No. G-9, Subs 131, 131A, 131B, and 131C wherein the Commission approved a Curtailment Tracking Adjustment (CTA) to allow Piedmont to track the revenue effects of increased or decreased curtailment.

3. That by this application Piedmont is seeking to increase its CTA by $.26145 per mcf on all rate schedules effective June 1, 1976.

4. That the $.26145 rate per mcf consists of the following:

(a) $.24452 per mcf for the current tracking increment,

(b) $.08690 per mcf reduction to refund overcollections calculated from February 20, 1975, and

(c) $.06524 per mcf to cover undercollection occurring between April 15 and May 31, 1976, as a result of the filing time lag.

5. That the $.26145 per mcf CTA rate is based upon sales volumes estimated using the Transco summer entitlement period.

6. That Paragraph 5 of the Commission's Order of April 8, 1976, in Docket No. G-9, Sub 148, requires Piedmont to base future CTA filings on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period.

7. That the procedures set forth in Appendix A attached hereto calculating the CTA in this proceeding are just and reasonable.

Whereupon, the Commission reaches the following

CONCLUSIONS

In its Order Establishing Rates for Piedmont issued December 12, 1974, in Docket No. G-9, Sub 131, the Commission recognized that, because of the uncertainty in future availability of gas supplies, it was impossible to accurately forecast future revenues and expenses for the Company. The Commission therefore concluded that Piedmont's proposed Curtailment Tracking Adjustment formula (CTA) was desirable as a means of allowing the Company to maintain a base period margin (the difference between its revenues and the cost of purchased gas plus gross receipts taxes) thereby avoiding the necessity of a general rate case each time the level of curtailment changes.

Since the CTA is a rate set for the future, it is necessarily based on projected volumes of gas. The CTA approved for Piedmont provides that the Company shall file rate schedules and revisions every six months reflecting the actual effect of changes in curtailment on the margin. The CTA is then adjusted or "trued up" to reconcile actual experience with projected experience at the time of the last filing. In the future as curtailment decreases and natural gas supplies to North Carolina improve, the CTA will be reduced.

The Commission is of the opinion that the precision with which the CTA tracks increases or decreases in curtailment depends upon the accuracy of the estimated volumes of gas for sale in the future. Accordingly, the Commission concludes that the use of both historical and future Transco entitlement periods provides the best estimate of volumes at the time of filing and should serve as the basis for the CTA calculation in the instant case. The Commission also concludes that the amounts heretofore collected by Piedmont under the $.26145 per mcf CTA rate, to the extent they exceed such amounts as would have been collected by Piedmont had the CTA been calculated in accordance with Appendix A to this Order, are unjust and unreasonable and should be refunded pursuant to Piedmont's Undertaking filed with the Commission. Further, the Commission concludes that, since many of the customers who paid the overcollections dating from February 20, 1975, may not have gas service this winter due to the increase in curtailment, they will not receive their fair share of the refund. The Commission therefore

concludes that these amounts should be refunded during the summer period.

FURTHER CONCLUSION

The Commission takes judicial notice of the fact that the rate in question in this proceeding has never been calculated to the complete satisfaction of the Company, the Attorney General or the Commission Staff. The record in Docket No. G-9, Subs 13A, 13B, 13C, and Sub 13D, reveals certain inequities both to Piedmont and to its customers. Contrary to the Commission's original intent in establishing the CTA, this rate has never been subjected to an absolute "true up." The Commission is of the opinion that this should now be done. Accordingly, the Commission concludes that the adjustments to the CTA approved herein are just and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Application of Piedmont Natural Gas Company, Inc., to increase its curtailment tracking adjustment rate by $.2645 per mcf effective June 1, 1976, be, and hereby is, denied.

2. That Piedmont shall file revised tariffs, in accordance with Appendix A attached hereto, to be effective as of the original filing date and shall implement the refund provisions thereof within 60 days of the date of this Order.

3. That Piedmont shall file within 60 days after the implementation of the provisions set forth in Paragraph 2 above a report accounting for the distribution of refunds and overcollections.

4. That, to the extent not modified by the provisions of Appendix A herein, the approved method of calculating Piedmont's CTA shall remain unchanged.

5. That Piedmont shall give the Commission 30 days' notice of all future changes in the curtailment tracking adjustment.

6. That Piedmont shall give appropriate notice to its customers of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 22nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
Docket No. G-9, Sub |3|D

The following steps and procedures shall be used in implementing the Commission Order in this docket:

1. Historical volumes for the 5-|/2 months' period, November |, |975, through April |5, |976, plus estimated future volumes for the 6-|/2 months' period April |6, |976, through October 3|, |976, shall be used for purposes of calculating the CTA rate to be effective June |, |976. Estimated volumes shall include any emergency purchases.

2. A "true" CTA rate shall be calculated for the period January |, |975, through December 3|, |975, based on actual curtailment for the period. An adjustment for the period shall then be calculated by determining the difference between the actual revenues from CTA rates in effect and the pro forma revenues at the "true" CTA rate based on actual billed volumes.

3. A "true" CTA rate shall be calculated for the period April |6, |975, through April |5, |976, based on actual curtailment for the period. An adjustment for the period January |, |976, through April |5, |976, shall then be calculated by determining the difference between the actual revenue from the CTA rate in effect for that period and the pro forma revenue at the true CTA rate based on actual billed volumes.

4. An adjustment shall be calculated for the period April |6, |976, through May 3|, |976, due to the time lag in implementing rates. This adjustment shall be the difference between the $.07945 rate in effect and the rate calculated in item |. above multiplied by the volumes sold during the period April |6, |976, through June |8, |976. This adjustment shall be applicable to bills rendered on and after June |, |976.

5. The difference between the $.26|45 rate subject to undertaking and the rate determined in |. above multiplied by the volumes on which the $.26|45 has been billed shall be flowed back to the customers who paid the $.26|45 by credits to their bills or by refund check.

6. The adjustment determined in 2. and 3. above shall be allocated by priorities based on the volumes sold for the |2-month period ending April |5, |976. Based on this allocation, the overcollection shall be refunded as follows:

(a) In priorities A-Q, each customer shall receive a credit to his bill or a refund check.

(b) A rate shall be calculated to flow back the remaining balance of the adjustment to the R priority over a 12-month period effective June 18, 1976.

DOCKET NO. G-9, SUB 152

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of Application by Piedmont Natural Gas Company, Inc., for an Adjustment of Its Rates and Charges | ) ) ) | ORDER APPROVING TRACKING INCREASE |

BY THE COMMISSION: On 26 June 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. On 11 December 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that participation in the financing of such ventures be in the ratio of 75 percent customer funds and 25 percent stockholder funds.

On 1 December 1975, Piedmont Natural Gas Company, Inc., (Piedmont) filed an application and exhibits in Docket No. G-9, Sub 152, seeking authority to adjust its rates and charges to recover 75% of its costs incurred as of 30 September 1975 in exploration and development ventures approved by the Commission. Piedmont proposed to increase rates to all customers by $.02325 per MCF.

Since, pursuant to the Commission's Order of 26 June 1975 in Docket No. G-100, Sub 22, all amounts collected under the proposed increase will be kept in separate accounts and offset by costs, the Commission finds and concludes that the proposed increase will not result in an increase in Piedmont's rate of return over the rate of return most recently approved for the company in a general rate case.

The Commission is of the opinion, however, and so finds and concludes, that the proposed increase seeks to recover certain expenditures incurred by Piedmont which are inconsistent with those types of expenditures approved by the Commission in similar tracking increases and which should be eliminated in this docket. These expenditures are as follows:

| | |
|---|---|
| Employee expenses prior to June 26, 1975 | $ 5,222.58 |
| Salaries and wages | 6,150.84 |
| Outside services prior to June 26, 1975 | 2,800.00 |
| Educational expenditures | 4,630.80 |
| Estimated income taxes | 75,045.59 |
| Golf green and cart fees | 478.82 |
| | $94,328.63 |

The elimination of the above expenditures reduces the amount of the tracking increase to $.01949 per MCF.

Upon review of said application and exhibits, the Commission therefore finds and concludes that Piedmont should be allowed to track 75 percent of its costs incurred, less expenditures eliminated herein, between 26 June 1975 and 30 September 1975 in approved exploration programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the proposed rate adjustments in the application of Piedmont Natural Gas Company, Inc. in the above docket, as modified by this Order, shall become effective on all gas bills rendered on and after 1 January 1976.

2. That Piedmont shall file revised tariffs reflecting the modifications contained in this Order.

3. That Piedmont shall establish an account to record the revenue received from this increase in rates so that the Commission can determine that the revenues collected equate to the amount expended in approved exploration programs.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 152

PURRINGTON, COMMISSIONER, DISSENTING: As stated in prior Order, I am opposed to compelling any involuntary investment by rate payers in exploration ventures undertaken by the Company. In my view the rates approved herein constitute such an involuntary investment and should not be allowed.

J. Ward Purrington, Commissioner

DOCKET NO. G-9, SUB 152

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Piedmont Natural Gas Company, Inc., for an Adjustment of its Rates and Charges to Recover its Costs of Exploration in Approved Programs | ) ) ) ) | SUPPLEMENTAL ORDER APPROVING TRACKING INCREASE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 16, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney, Tenney I. Deane, Jr., George T. Clark, Jr., J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, P. O. Drawer U, Greensboro, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, P.O. Box 629, Raleigh, North Carolina

BY THE COMMISSION: On June 26, 1976, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. In this Order the Commission approved the Graham-Chandler drilling program and authorized the North Carolina gas utilities as a group to invest in the program, either directly or through wholly owned subsidiaries.

By Order dated August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders dated August 13, 1975, the Commission approved the Enterprise Resources limited partnership drilling program and the Transco-McMoRan joint venture drilling program for similar investment.

On December 1, 1975, Piedmont Natural Gas Company, Inc. (Piedmont), filed an Application in Docket No. G-9, Sub 152, seeking authority to adjust its rates and charges to recover all costs incurred as of September 30, 1975, in these exploration and development ventures approved by the Commission and proposing to increase rates to all customers by $.02325 per Mcf.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates for costs incurred in such ventures be limited to seventy-five percent (75%) of such costs with the remaining twenty-five percent (25%) to be contributed from stockholder funds.

On December 19, 1975, Piedmont filed an amended petition in Docket No. G-9, Sub 152, showing the contribution by stockholders of twenty-five percent (25%) of exploration costs incurred as of September 30, 1975, and proposing an increase of $.02325 per Mcf to all rate schedules.

Together with its filing of December 1, 1975, Piedmont filed the following data:

Exhibit 1 - The present rates of Petitioner are as filed in Docket No. G-9, Sub 151-R, and made a part hereof by reference

Exhibit 2 - Schedule of the rates and charges proposed by the Petitioner in this Docket

Exhibit 3 - Statement of original cost rate base

Exhibit 4 - Statement of present fair value rate base

Exhibit 5 - Statement showing accrued depreciation and depreciation rates

Exhibit 6 - Statement of materials and supplies necessary for operation of Petitioner's business

Exhibit 7 - Statement showing amount of cash working capital which Petitioner finds necessary to keep on hand

Exhibit 8 - Statement of net operating income for return for twelve months ending September 30, 1975

- Statement showing rates of return on rate base

- Statement showing rates of return on stockholders' equity

Exhibit 9 - Balance sheet and income statement for the year ended September 30, 1975

Exhibit 10 - Statement of costs incurred and revenue received in exploration programs and computation of rate adjustment

Piedmont later filed a copy of Notice to the Public and Affidavits of Publication showing the publication in newspapers of general circulation in the service territory of the Company.

On January 7, 1976, the Commission issued its Order allowing the proposed rate adjustments, reduced to $.01949 per Mcf to eliminate certain improperly included expenditures, to become effective on bills rendered on or after January 1, 1976.

On February 3, 1976, the Attorney General of North Carolina filed a Notice of Appeal and Exceptions to the Order of January 5, 1976, and on March 5, 1976, Piedmont filed a Motion for Hearing before the Commission on the Exceptions of the Attorney General.

By Order of March 5, 1976, the Commission allowed the Motion and consolidated this Docket for hearing on March 16, 1976, with related Dockets involving North Carolina Natural Gas Corporation (Docket No. G-21, Sub 147) and Public Service Company (Docket No. G-5, Sub 116).

The matter came on for hearing as scheduled with all parties present. Upon motion by Piedmont, the Commission noted that it had taken judicial notice of the Orders Establishing Natural Gas Exploration Rules in Docket No. G-100, Sub 22, and the further Orders approving the four drilling programs set out above and stated that the record in this Docket No. G-9, Sub 152, would include Piedmont's Application and Exhibits.

Also, at the hearing the Attorney General moved that the Commission declare Docket No. G-9, Sub 152, a general rate case or a complaint proceeding. The Commission denied the motion and ruled that the Docket was not a general rate case.

Based on the Orders of the Commission noted above, the Application and Exhibits as filed, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That Piedmont Natural Gas Company is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That the test period used in this proceeding was the twelve-month period ending September 30, 1975.

3. That the rates and charges which Piedmont is seeking to put into effect in this proceeding are $.02325 per Mcf to all customers (reduced by the Commission's Order of January 7, 1976, to $0.1949 per Mcf) and will recover over the six months' period from January 1, 1976, to June 30, 1976, seventy-five percent (75%) of the reasonable costs incurred by Piedmont in Commission-approved exploration programs, such costs having been incurred between June 26, 1975, and September 30, 1975.

4. That except as noted above all of the expenditures which Piedmont is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

5. That the Exhibits filed by Piedmont show the following:

(i) The original cost of Piedmont's property used and useful in providing service to the public is $86,800,141 (Exhibit 3).

(ii) The fair value of Piedmont's property used and useful in providing service to the public is $102,556,009 (Exhibit 4).

(iii) Piedmont's revenues under rates in effect prior to the increase requested in this Docket are estimated at $51,028,013 (Exhibit 8).

(iv) Piedmont's revenues under the proposed rates are estimated at $51,465,572 (Exhibit 8).

(v) Piedmont's reasonable operating expenses are approximately $43,894,877 before expenditures in connection with Commission-approved exploration programs (Exhibit 8) and approximately $44,332,436 after including seventy-five percent (75%) of such expenditures (Exhibit 8).

(vi) After accounting adjustments the proposed rates will produce rates of return on original cost net investment of 8.22% and on fair value rate base of 6.95% (Exhibit 8).

(vii) After accounting adjustments the proposed rates will produce rates of return on end of period common equity of 9.87% and on fair value equity of 6.61% (Exhibit 8).

The rates of return on original cost and on equity found to be just and reasonable by the Commission in its Order in Docket No. G-9, Sub 131, the last general rate case, and those determined by the Commission in this Docket are as follows:

| | Docket No. G-9 Sub 13 | September 30, 1975 Per Company |
|---|---|---|
| On investment | 9.44% | 8.22% |
| On equity | 14.06% | 9.87% |

6. That, after adjustment for the proposed increased rates applied for by Piedmont herein, the rates of return on end of period investment and on equity do not exceed those found just and reasonable by the Commission in its general rate case Order issued December 12, 1974.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

An emergency natural gas shortage exists in North Carolina. The five natural gas distribution companies are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their natural gas supply. Transco's system-wide deficiencies have made it difficult for the gas utilities serving North Carolina to meet the needs of their high priority customers. Unless these utilities are able to obtain additional supplies of gas, they will be unable to render adequate and efficient service.

Extensive studies and investigations of alternate methods of increasing the supply of natural gas have shown that the quickest, most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The State itself produces no natural gas, and the relatively low level of interstate natural gas prices has suppressed exploration efforts elsewhere.

It is under trying circumstances such as these that considered judgment is required. Not to take unusual action would result in a questionable use of that judgment. The Commission therefore concludes that, under prevailing conditions, expenditures for exploration as herein approved are just and reasonable, in the public interest, and required by public convenience and necessity.

The Commission's general Order in Docket No. G-100, Sub 22, establishes a procedure for prior approval of exploration and drilling programs to be participated in by the natural gas utilities operating in the State and further provides for the filing of rates which will recover the reasonable costs incurred in such exploration and drilling programs together with exhibits setting out the data required by North Carolina General Statute 62-133. The Order further provides that, if, after review and analysis of data filed by the North Carolina utility as described therein, the Commission concludes that the rates will not result in an increase in the Company's rate of return on end of period investment or an increase in the Company's rate of

return on equity as approved by this Commission in the Company's last general rate case, the Commission may allow to become effective the increase in rates attributable to seventy-five percent (75%) of the reasonable costs incurred in Commission-approved exploration and drilling programs. The Commission is of the opinion that the Petition, Exhibits, and the filings herein meet the requirements of G.S. 62-133 and the Order of the Commission entered in Docket No. G-100, Sub 22, for recovery of seventy-five percent (75%) of the costs incurred in approved exploration and drilling programs.

Finding that in this proceeding the rates of return on end of period investment and on common equity do not exceed the returns allowed Piedmont in its last general rate proceeding in Docket No. G-9, Sub 131, issued December 12, 1974, the Commission is of the opinion that no further hearing is necessary or required and that the increase in rates applied for by Piedmont to become effective January 1, 1976, is just and reasonable and should be permitted to become effective as filed.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of January 5, 1976, is affirmed except as modified herein and the Exceptions of the Attorney General are overruled.

2. That Piedmont be, and hereby is, authorized to increase its rates to all its customers by $.01949 per Mcf effective for bills rendered on and after January 1, 1976.

3. That Piedmont shall establish an account to record the revenue received from this increase in rates in such manner that the Commission can determine that the revenues collected from such rate increase are equal to seventy-five percent (75%) of the reasonable costs incurred in approved exploration and drilling programs.

4. That Piedmont account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

5. That the attached notice, Appendix "A," be mailed to all customers along with their next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"

Upon application of Piedmont Natural Gas Company, Inc., to recover 75% of costs incurred between June 26, 1975, and September 30, 1975, in programs of natural gas exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates in all bills rendered on or after January 1, 1976, by $.01949 per Mcf on all rate schedules.

DOCKET NO. G-9, SUB 152

PURRINGTON, COMMISSIONER, DISSENTING: By allowing the Company to pass through to the consumer its costs of investment in gas exploration schemes, the source of capital funds and the attendant risks are shifted from the investor to the consumer. In a free enterprise economy, investment decisions must be voluntary not, as here, imposed by regulatory authority. In my view, this Order compels the consumer to become an involuntary investor in one of the most speculative enterprises known, and the Commission lacks authority to do so.

J. Ward Purrington, Commissioner

DOCKET NO. G-9, SUB 157

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Piedmont Natural Gas Company<br>for an Adjustment of its Rates and<br>Charges | ) ORDER<br>) APPROVING<br>) TRACKING<br>) INCREASE |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, on July 13, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Commissioners Ben E. Roney, W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey and Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Intervenors:

Thomas W. Steed, Jr., Allen, Steed & Allen, P.A., Attorneys at Law, Post Office Box 2058, Raleigh, North Carolina
For: Owens-Illinois, Inc.

Keith R. McCrea, Grove, Jaskiewicz, Gilliam & Cobert, Attorneys at Law, 1730 M Street, N. W., Washington, D. C. 20036
For: Owens-Illinois, Inc.

For the Attorney General:

Jesse C. Brake, Associate Attorney General, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 26, 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. Rule R1-17(h) established therein provides for the formation of a committee representing the gas utilities, the Commission, and the intervenor cities of Wilson, Rocky Mount, Greenville, and Monroe to select exploration projects for Commission approval. Once a project is approved by the Commission, the utilities are authorized to expend funds for such project. On or before June 1 and December 1 of each year, each utility must file with the Commission a statement of costs incurred and revenues received from the projects during the six-month period ended the previous March 31 or September 30, respectively. Along with such filing, the utility may request an increase in its rates to recover during the next six months its reasonable costs less revenues. If such revenues exceed such expenses, the utility must file to reduce its rates to amortize the difference over the next six-month period.

In its Order of June 26, 1975, the Commission approved the Graham-Chandler (now Carolina Gas Exploration Company) drilling program and authorized the North Carolina gas utilities as a group to invest in the program, either directly or through wholly-owned subsidiaries. By Order issued August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders

issued August 13, 1975, the Commission approved the Enterprise Resources limited partnership (ERI, Ltd.) drilling program and the Transco-McMoRan (Transmac) joint venture drilling program for similar participation.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates of costs incurred in such ventures be limited to 75% of such costs with the remaining 25% to be contributed from stockholder funds.

By Order issued January 7, 1976, in Docket No. G-9, Sub 152, the Commission approved an increase of $.02325 per mcf to all rate schedules, allowing Piedmont Natural Gas Company, Inc. (hereinafter referred to as Piedmont or this Company), to recover 75% of costs incurred in exploration and drilling programs between June 26 and September 30, 1975. This Order was affirmed by Supplemental Order issued April 8, 1976.

On June 7, 1976, Piedmont filed in Docket No. G-9, Sub 157, an application pursuant to Commission Rule R1-17(h) seeking authority to increase its exploration tracking rate by $.03694 per mcf effective July 1, 1976, through December 31, 1976, in order to recover 75% of its costs incurred during the six-month period ended March 31, 1976, in approved exploration and development programs.

With its application, Piedmont filed the following data:

| | | |
|---|---|---|
| Exhibit 1 | - | Present rate schedules incorporated by reference as filed in Docket No. G-9, Sub 131-D effective June 1, 1976 |
| Exhibit 2 | - | Proposed rate schedules |
| Exhibit 3 | - | Statement of original cost plant |
| Exhibit 4 | - | Statement of fair value rate base |
| Exhibit 5 | - | Statement showing accrued depreciation and depreciation rates |
| Exhibit 6 | - | Statement of materials and supplies |
| Exhibit 7 | - | Statement of cash working capital |
| Exhibit 8 | - | Statement of net operating income, accounting and pro forma adjustments, rates of return on original cost rate base and fair value rate base, and rate of return on fair value equity |
| Exhibit 9 | - | Balance sheet and income statement for the 12 months ended April 30, 1976 |

Exhibit 10 - Statement showing expenditures in approved exploration programs and computation of tracking adjustment

On June 9, 1976, the Attorney General filed Notice of Intervention and Motion to Dismiss and Alternative Motion for Hearing, Notice and Suspension in the above docket. By Order issued June 18, 1976, the Commission recognized the Intervention of the Attorney General.

On June 25, 1976, the Commission issued an Order setting the application for hearing on July 13, 1976, requiring public notice, concluding that the matter is not a general rate case and suspending the proposed tracking rate pending the filing by Piedmont of an Undertaking to refund any amounts collected thereunder which might be found unjust and unreasonable by the Commission. On June 30, 1976, Piedmont filed such Undertaking and the Commission issued its Order permitting the rates to become effective pursuant thereto.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner ruled that this is a case confined to the reasonableness of a specific single rate, namely, a surcharge by which the Company seeks to recover 75% of costs incurred in Commission-approved exploration and development programs. The Commissioner further ruled that the proceeding was conducted in accordance with Commission Rule R1-17(b), which was established in Docket No. G-100, Sub 22, pursuant to the Commission's rulemaking authority conferred by G.S. 62-30, 31, 32, and 130.

Earl C. Chambers, Senior Vice President - Gas Supply and Technology for Piedmont Natural Gas Company and Acting Chairman of the Exploration Committee formed pursuant to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, testified and offered an exhibit outlining the results of the participation by the gas utilities in approved exploration programs: Carolina Gas, Transmac, Transco-Mosbacher, and ERI, Ltd. Chambers Exhibit 1 shows that through June 30, 1976, the five North Carolina gas utilities have spent $6,044,914 in exploration and development programs. Proved reserves discovered to date are 4,955,095 mcf of gas and 359,690 bbls. of oil with a total value of $9,012,398; probable reserves are 5,855,310 mcf and 333,345 bbls. worth $9,615,442.

Mr. Chambers also presented an exhibit showing Piedmont Exploration Company's participation in Commission-approved programs. He testified that as of July 2, 1976, Piedmont expects to be curtailed 59.54% which will mean in a normal winter curtailment of customers in categories O and P and some in category Q and in a colder than normal winter curtailment of OP and Q and some R.1.

Everette C. Hinson, Vice President - Treasurer of Piedmont Natural Gas Company, Inc., testified concerning the application and exhibits filed by Piedmont in this docket. Mr. Hinson stated that any gas discovered in the Company's exploration and drilling programs belongs to the customer and the only additional charge for the gas will be for lifting, gathering, and transporting the gas to the city gate stations.

Jack Buchanan, representing Lance, Inc., a baker and processor of snack foods, testified that a supply of natural gas for baking equipment is essential to the operation of his company. He stated that Lance recognizes the need to pay for Piedmont's exploration and drilling program and favors the granting of the Company's application.

Donald E. Daniel, Coordinator of the Accounting Gas and Water Section of the Commission Staff, testified that the Staff reviewed and analyzed the exhibits and supporting data submitted by Piedmont. The Staff determined that the expenditures reported by the Company were properly related to Commission-approved exploration programs and were expended during the period October 1, 1975, through March 31, 1976, and that the application was otherwise in conformity with Rule R1-17(h).

Daniel M. Stone, Utilities Engineer in the Gas Section of the Commission's Engineering Staff, testified that the Staff analyzed the application and exhibits and cross-checked volume data and statistics with comparable information contained in Commission records. Based upon its examination of the application and exhibits, the Staff verified Piedmont's calculation of the proposed tracking rate.

Based on the evidence presented at the hearing, the application and exhibits filed by Piedmont, and the entire record in this matter, 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 as of June 30, 1976, a total of 51 wells have been drilled in the four Commission-approved exploration programs resulting in 37 dry wells, 11 gas wells, and 3 oil wells. Piedmont is participating in the four programs as follows: Carolina Gas - 42%; Transmac - 6.25%; Transco-Mosbacher - 5.5556%; and ERI, Ltd. - 7.50%.

3. That a total of $6,044,914 has been spent in these programs by the five North Carolina gas utilities. Of this amount, Piedmont has spent $2,026,518. Estimated gas reserves from the programs for all gas companies are as follows: Proved reserves - 4,955,095 mcf; probable reserves - 5,855,310 mcf; possible reserves - 8,831,253 mcf; and

total reserves - 19,641,658. Piedmont's shares are 1,502,448 mcf; 1,772,570 mcf; 2,660,075 mcf; and 5,935,093 mcf, respectively. Estimated oil reserves from the four programs for all gas companies are as follows: proved reserves - 359,690 bbls.; probable reserves - 333,345 bbls.; possible reserves - 401,719 bbls.; and total reserves - 1,094,754 bbls. Piedmont's shares are 112,403 bbls.; 104,078 bbls.; 124,025 bbls.; and 340,506 bbls., respectively.

4. That estimated values of the oil and gas reserves from the four programs for all gas companies are as follows: proved reserves - $9,012,398; probable reserves - $9,615,442; possible reserves - $13,362,643; and total reserves - $31,990,483. The values to Piedmont are $2,770,354; $2,946,570; $4,059,077; and $9,776,001, respectively.

5. That the test period used in this proceeding is the 12 months ended April 30, 1976.

6. That the rate which Piedmont is seeking to put into effect in this proceeding is $.05643 per mcf to all customers, which will enable Piedmont to recover over the six-month period from July 1, 1976, to December 31, 1976, 75% of the reasonable costs incurred by the Company between October 1, 1975, and March 31, 1976, in Commission-approved exploration programs.

7. That all of the expenditures which Piedmont is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

8. That the exhibits filed by Piedmont show the following:

(i) The original cost of Piedmont's property used and useful in providing service to the public is $82,909,724. Exhibit 8)

(ii) The fair value of Piedmont's property used and useful in providing service to the public is $98,573,184. (Exhibits 4 and 8)

(iii) Piedmont's revenues under rates in effect prior to the increase requested in this docket are estimated at $53,117,047. (Exhibit 8)

(iv) Piedmont's revenues under the proposed rates are estimated at $54,115,173. (Exhibit 8)

(v) Piedmont's reasonable operating expenses are approximately $46,131,163 before expenditures in connection with Commission-approved exploration programs. (Exhibit 8)

(vi) As a result of expenditures in approved exploration programs, Piedmont has increased its ordinary and reasonable expenses by $998,126. (Exhibit 8)

(vii) After accounting and pro forma adjustments Piedmont's rate of return on end of period net investment is 8.37% and on fair value rate base is 7.04%. (Exhibit 8)

(viii) After accounting and pro forma adjustments Piedmont's rate of return on end of period common equity is 9.67% and on fair value equity is 6.71%. (Exhibit 8)

9. That the rates of return found just and reasonable by the Commission in Docket No. G-9, Sub 131, Piedmont's last general rate case, are as follows:

| | |
|---|---|
| End of period net investment | 9.44% |
| Fair value rate base | 7.82% |
| End of period common equity | 14.06% |
| Fair value equity | 8.75% |

10. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage continues to threaten the well-being of the citizens of North Carolina. The five natural gas distribution companies serving the State are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their supply of natural gas. Transco's system-wide deficiencies have made it difficult for these gas utilities to meet the needs of their high priority customers. Without additional supplies of gas, they will be unable to render adequate and efficient service.

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternate methods of increasing the supply of natural gas, that the most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The Commission therefore established a procedure whereby the North Carolina gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenses at six-month intervals.

The Commission is of the opinion that, while the precise effect on cost and volumes of gas is not yet known, the evidence in this proceeding clearly shows that the ratepayers will ultimately receive substantial benefits. To alter the procedure established under Rule R1-17(h) at this time would be to deprive the ratepayers not only of additional supplies of natural gas which they helped to discover but also of a share in the profits they helped to produce.

Finding that the proposed rates will not result in Piedmont's rates of return on end of period net investment and on common equity exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the application and exhibits filed herein meet the requirements of Rule R1-17(h) for the recovery of 75% of the reasonable costs incurred by Piedmont during the period October 1, 1975, through March 31, 1976, in approved exploration and drilling programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Piedmont Natural Gas Company, Inc., be, and hereby is, authorized to increase its exploration tracking surcharge to all customers by $.03694 per mcf effective on bills rendered on or after July 1, 1976, in order to recover 75% of reasonable expenditures in Commission-approved exploration and development programs during the period October 1, 1975, through March 31, 1976.

2. That Piedmont shall establish an account to record the revenue received from this increase in such a manner that the Commission can determine that the revenues collected from such increase are equal to 75% of the reasonable amounts refunded in approved exploration and development programs during the period October 2, 1975, through March 31, 1976.

3. That Piedmont shall account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

4. That the attached notice, Appendix A, be mailed to all customers along with their next bills advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Upon application by Piedmont Natural Gas Company, Inc., to recover 75% of costs incurred between October 1, 1975, and March 31, 1976, in programs of exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates for all bills rendered on or after July 1, 1976, by $.03694 per mcf on all rate schedules.

DOCKET NO. G-9, SUB 157

COMMISSIONER PURRINGTON, DISSENTING: Having dissented in previous dockets allowing recovery of costs associated with exploration drilling programs, I cannot concur in the decision here. In my opinion, the expenditures which Piedmont is seeking to recover are not ordinary and reasonable expenses of a public utility gas distribution company.

J. Ward Purrington, Commissioner

DOCKET NO. G-9, SUB 159

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---|---|
| In the Matter of | |
| Application of Piedmont Natural Gas Company, Inc., for an Adjustment of its Rates and Charges | ) ORDER APPROVING RATE INCREASE<br>) FOR NON-RESIDENTIAL CUSTOMERS<br>) TO RECOVER INCREASED WHOLESALE<br>) COST OF GAS FROM AUGUST 16, 1976,<br>) THROUGH OCTOBER 31, 1976 |

HEARD IN: The Commission Hearing Room, One West Morgan Street, Raleigh, North Carolina, August 13, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

James T. Williams, Jr.
Brooks, Pierce, McLendon, Humphrey & Leonard
Post Office Drawer U
Greensboro, North Carolina 27402

For the Using and Consuming Public:

Jesse C. Brake, Associate Attorney General
Richard Griffin, Associate Attorney General
North Carolina Attorney General's Office
Post Office Box 629
Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp, Commission Attorney
Antoinette R. Wike, Associate Commission Attorney
North Carolina Utilities Commission
Post Office Box 991
Raleigh, North Carolina 27602

BY THE COMMISSION: On August 11, 1976, Piedmont Natural Gas Company, Inc. (hereinafter referred to as Piedmont) filed an application and exhibits pursuant to Rule R1-17(g) seeking authority to adjust its rates and charges for natural gas service to reflect an increase in the wholesale cost of gas arising from a special purchase of 1,000,000 Mcf of gas from Oklahoma Natural Gas Company at a purchase price of $2,200,000.

The application seeks to adjust Piedmont's rates for gas service by increasing all rate schedules by $.2046 per Mcf for the period beginning August 16, 1976, and ending October 31, 1976. The limitation upon the period requested for the increase is designed to coincide with the period during which said 1,000,000 Mcf of gas will be allocated for delivery to Piedmont's customers in North Carolina.

On August 11, 1976, the Commission issued its Order Setting Hearing on the application for August 13, 1976. On August 12, 1976, the Attorney General, Rufus Edmisten, and his Associate Attorney General Jesse C. Brake filed Notice of Intervention under G.S. 62-20 on behalf of the using and consuming public of the State of North Carolina.

At the public hearing, Piedmont offered the testimony of Everett C. Hinson, Vice President and Treasurer, describing the purpose of the application to recover the additional wholesale cost of the special purchase of 1,000,000 Mcf of gas; and the testimony of Earl Chambers, Senior Vice President for Supply and Technology, who testified as to the reasons for the purchase of said 1,000,000 Mcf of gas. The Commission Staff offered the testimony of Daniel M. Stone, Gas Engineer, Utilities Commission Staff, who described the handling by the Commission of prior purchases of emergency gas under conditions similar to those in the present application, and who presented an exhibit showing the amount of the wholesale tracking increase if the increase were applied only to non-residential customers.

Based upon the testimony and exhibits and all evidence of record, the Commission makes the fcllowing

FINDINGS OF FACT

1. That the purchase by Piedmont of the 1,000,000 Mcf of gas frcm Oklahoma Natural Gas Ccmpany for resale to its customers in North Carolina is an essential purchase of additional wholesale supplies of gas required to provide adequate service to Piedmont's custcmers in North Carolina, and therefore is in the public interest.

2. That the wholesale price of the 1,000,000 Mcf of gas is $1,275,456 greater than the wholesale price of 1,000,000 Mcf of gas under Piedmont's standard contract with its supplier, and that to pass on or track said additional whclesale cost of gas to its customers would require an increase of 20.461 cents per Mcf if the cost is tracked or passed on to all of Piedmont's customers, and would be 24.917 cents per Mcf if said additional cost is tracked through only to Piedmont's non-residential custcmers.

3. That Piedmont's present supply of gas available for the period from August 16, 1976, through October 31, 1976, would be sufficient under ordinary circumstances to serve its residential customers included in the Commission's priority schedule R.2, and that under normal weather conditions the residential customers in priority schedule R.2 would not receive directly the vclumes of gas included in the 1,000,000 Mcf of special purchase gas; further, that, while said special purchase of 1,000,000 Mcf of gas would have some general safety effect on the supply of the total Piedmont system, the direct use of the gas would flow primarily to non-residential custcmers and the direct benefits of said purchase would accrue to non-residential customers.

4. That the additional wholesale cost of gas should be passed on or tracked through to customers in the non-residential categories by an increase of 24.917 cents per Mcf to all rate schedules except Rate Schedule 101.

5. That the increase in rates approved herein will not result in an increased rate cf return on Piedmont's investment, nor will it result in a return on equity above that allowed Piedmont in its last general rate case.

CONCLUSICNS

The Commission finds and concludes that it is essential to the custcmers of Piedmont in North Carolina that Piedmont purchase the 1,000,000 Mcf of gas, which is the subject of this proceeding. The Commission further concludes that the additional cost of said gas over the ordinary whclesale cost cf gas from its supplier should be passed on to Piedmont's non-residential customers as a whclesale cost of gas tracking increase during the period when the gas will be

allotted for delivery in North Carolina, i.e., from August |6, |976, through October 3|, |976. Piedmont has stipulated that if the volumes of gas sold during said period should be greater than those anticipated in the application, the rate will be adjusted so that the Company will not collect any more than the actual increased purchase price of the gas.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

|. That Piedmont Natural Gas Company, Inc., is hereby authorized to increase all of its rate schedules, except schedule |0|, residential service, by 24.9|7 cents per Mcf effective August |6, |976 to recover the increased cost of gas supplies purchased from Oklahoma Natural Gas Company.

2. That Piedmont shall recover under this increase no more than the increased cost of gas purchased from Oklahoma Natural Gas Company, and shall file on one day's notice tariffs to reflect any changes in the increase required to recover said increased cost of gas, based upon any changes in transportation cost or volumes of gas sold.

3. That Piedmont shall file a complete accounting statement showing the amount of revenue received and the increased cost incurred in purchasing this gas from Oklahoma Natural Gas Company within 30 days after Piedmont has recovered its entire cost in this emergency purchase.

ISSUED BY ORDER OF THE COMMISSION.

This |3th day of August, |976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB ||6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| By Public Service Company of North Carolina, | ) | ORDER |
| Incorporated - Application for An Adjustment | ) | APPROVING |
| of Its Rates and Charges to Recover Its | ) | TRACKING |
| Costs of Exploration in Approved Programs | ) | INCREASE |

BY THE COMMISSION: On 26 June |975, in Docket No. G-|00, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development.

On 28 November |975, Public Service Company of North Carolina, Incorporated (Public Service) filed an application

in Docket No. G-5, Sub 116 seeking authority to adjust its rates and charges to recover all costs incurred as of 30 September 1975 in exploration and development ventures approved by the Commission.

On 11 December 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that participation in the financing of such ventures be in the ratio of 75 percent customer funds and 25 percent stockholder funds.

On 19 December 1975, Public Service filed revised exhibits in Docket No. G-5, Sub 116, showing the contribution by stockholders of 25 percent of exploration costs incurred as of 30 September 1975 and proposing an increase of 4.51 cents per MCF to all rate schedules.

Since, pursuant to the Commission's Order of 26 June 1975 in Docket No. G-100, Sub 22, all amounts collected under the proposed increase will be kept in separate accounts and offset by costs, the Commission finds and concludes that the proposed increase will not result in an increase in Public Service's rate of return over the rate of return most recently approved for the company in a general rate case.

Upon review of said application and revised exhibits, the Commission therefore finds and concludes that Public Service should be allowed to track 75 percent of its costs incurred between 26 June 1975 and 30 September 1975 in approved exploration programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the proposed rate adjustments in the application of Public Service Company of North Carolina, Incorporated in the above docket shall become effective on all gas bills rendered on and after 1 January 1976.

That Public Service shall establish an account to record the revenue received from this increase in rates so that the Commission can determine that the revenues collected equate to the amount expended in approved exploration programs.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 116

PURRINGTON, COMMISSIONER, DISSENTING: As stated in prior Order, I am opposed to compelling any involuntary investment by rate payers in exploration ventures undertaken by the

Company. In my view the rates approved herein constitute such an involuntary investment and should not be allowed.

J. Ward Purrington, Commissioner

DOCKET NO. G-5, SUB 116

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application by Public Service Company<br>of North Carolina, Inc., for an<br>Adjustment of its Rates and Charges<br>to Recover its Costs of Exploration<br>in Approved Programs | ) | SUPPLEMENTAL ORDER APPROVING TRACKING INCREASE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 16, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney, Tenney I. Deane, Jr., George T. Clark, Jr., J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

P. Kent Burns, Boyce, Mitchell, Burns and Smith, P. O. Box 1406, Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, P.O. Box 629, Raleigh, N. C.

BY THE COMMISSION: On June 26, 1976, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. In this Order the Commission approved the Graham-Chandler drilling program and authorized the North Carolina gas utilities as a group to invest in the program, either directly or through wholly owned subsidiaries.

By Order dated August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders dated August 13, 1975, the Commission approved the Enterprise Resources limited partnership drilling program and the Transco-McMoRan joint venture drilling program for similar investment.

On November 28, 1975, Public Service Company of North Carolina, Inc. (Public Service), filed an Application in Docket No. G-5, Sub 116, seeking authority to adjust its rates and charges to recover all costs incurred as of September 30, 1975, in these exploration and development ventures approved by the Commission.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates for costs incurred in such ventures be limited to seventy-five percent (75%) of such costs with the remaining twenty-five percent (25%) to be contributed from stockholder funds.

On December 19, 1975, Public Service filed revised exhibits in Docket No. G-5, Sub 116, showing the contribution by stockholders of twenty-five percent (25%) of exploration costs incurred as of September 30, 1975, and proposing an increase of $.0451 per Mcf to all rate schedules.

Together with its filing of November 28, 1975, Public Service filed the following data:

Exhibit 1 - Statement of costs incurred and revenue received in

Exhibit 2 - Schedule of the rates and charges proposed by the Petitioner

Exhibit 3 - Statement of original cost rate base

Exhibit 4 - Statement of present fair value rate base

Exhibit 5 - Statement showing accrued depreciation balances and depreciation rates

Exhibit 6 - Statement of materials and supplies necessary for operation of Petitioner's business

Exhibit 7 - Statement showing amount of cash working capital which Petitioner finds necessary to keep on hand

Exhibit 8 - Statement of net operating income for return for twelve months ending September 30, 1975

Exhibit 9 - Statement showing rates of return on rate base

- Statement showing rates of return in stockholders' equity

Exhibit 10 - Balance sheet and income statement for the year ended September 30, 1975

Exhibit 11 - Statement of costs incurred and revenue received in exploration programs and computation of rate adjustment

Exhibit 12 - Copy of Notice to Public

Public Service later filed Affidavits of Publication of the Notice (Exhibit 12 above) showing the publication in newspapers of general circulation in the service territory of the Company.

On January 5, 1976, the Commission issued its Order allowing the proposed rate adjustments to become effective on bills rendered on or after January 1, 1976.

On February 3, 1976, the Attorney General of North Carolina filed a Notice of Appeal and Exceptions to the Order of January 5, 1976, and on March 3, 1976, Public Service filed a Motion for Hearing before the Commission on the Exceptions of the Attorney General.

By Order of March 5, 1976, the Commission allowed the Motion and consolidated this Docket for hearing on March 16, 1976, with related Dockets involving Piedmont Natural Gas Company (Docket No. G-9, Sub 152) and North Carolina Natural Gas Corporation (Docket No. G-21, Sub 147).

The matter came on for hearing as scheduled with all parties present. Upon motion by Public Service, the Commission noted that it had taken judicial notice of the Orders Establishing Natural Gas Exploration Rules in Docket No. G-100, Sub 22, and the further Orders approving the four drilling programs set out above and stated that the record in this Docket No. G-5, Sub 116, would include Public Service's Application and Exhibits.

Also, at the hearing the Attorney General moved that the Commission declare Docket No. G-5, Sub 116, a general rate case or a complaint proceeding. The Commission denied the motion and ruled that the Docket was not a general rate case.

Based on the Orders of the Commission noted above, the Application and Exhibits as filed, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That the test period used in this proceeding was the twelve-month period ending September 30, 1975.

3. That the rates and charges which Public Service is seeking to put into effect in this proceeding are $.0451 per Mcf to all customers and will recover over the six months' period from January 1, 1976, to June 30, 1976, seventy-five percent (75%) of the reasonable costs incurred by Public Service in Commission-approved exploration programs, such costs having been incurred between June 26, 1975, and September 30, 1975.

4. That all the expenditures which Public Service is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

5. That the Exhibits filed by Public Service show the following:

(i) The original cost of Public Service's property used and useful in providing service to the public is $78,138,162 (Exhibit 3).

(ii) The fair value of Public Service's property used and useful in providing service to the public is $95,504,130 (Exhibit 4).

(iii) Public Service's revenues under rates in effect prior to the increase requested in this Docket are estimated at $53,520,901 (Exhibit 9).

(iv) Public Service's revenues under the proposed rates are estimated at $54,184,898.

(v) Public Service's reasonable operating expenses are approximately $43,114,393 before expenditures in connection with Commission-approved exploration programs.

(vi) As a result of expenditures in approved exploration programs, Public Service will increase its ordinary and reasonable expenses by $871,996.

(vii) After accounting adjustments the proposed rates will produce rates of return on original cost net investment of 8.15% and on fair value rate base of 6.68% (Exhibit 9).

(viii) After accounting adjustments the proposed rates will produce rates of return on end of period common equity of 11.17% and on fair value equity of 6.43%.

The rates of return on original cost and on equity found to be just and reasonable by the Commission in its Order in Docket No. G-5, Sub 102, the last general rate case, and those determined by the Commission in this Docket are as follows:

| | Docket No. G-5, Sub 102 | September 30, 1975 Per Company |
|---|---|---|
| On investment | 9.33% | 8.15% |
| On equity | 16.50% | 11.17% |

6. That, after adjustment for the proposed increased rates applied for by Public Service herein, the rates of return on end of period investment and on equity do not exceed those found just and reasonable by the Commission in its general rate case Order issued February 13, 1975.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage exists in North Carolina. The five natural gas distribution companies are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their natural gas supply. Transco's system-wide deficiencies have made it difficult for the gas utilities serving North Carolina to meet the needs of their high priority customers. Unless these utilities are able to obtain additional supplies of gas, they will be unable to render adequate and efficient service.

Extensive studies and investigations of alternate methods of increasing the supply of natural gas have shown that the quickest, most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The State itself produces no natural gas, and the relatively low level of interstate natural gas prices has suppressed exploration efforts elsewhere.

It is under trying circumstances such as these that considered judgment is required. Not to take unusual action would result in a questionable use of that judgment. The Commission therefore concludes that, under prevailing conditions, expenditures for exploration as herein approved are just and reasonable, in the public interest, and required by public convenience and necessity.

The Commission's general Order in Docket No. G-100, Sub 22, establishes a procedure for prior approval of exploration and drilling programs to be participated in by the natural gas utilities operating in the State and further provides for the filing of rates which will recover the reasonable costs incurred in such exploration and drilling programs together with exhibits setting out the data

required by North Carolina General Statute 62-133. The Order further provides that, if, after review and analysis of data filed by the North Carolina utility as described therein, the Commission concludes that the rates will not result in an increase in the Company's rate of return on end of period investment or an increase in the Company's rate of return on equity as approved by this Commission in the Company's last general rate case, the Commission may allow to become effective the increase in rates attributable to seventy-five percent (75%) of the reasonable costs incurred in Commission-approved exploration and drilling programs. The Commission is of the opinion that the Petition, Exhibits, and the filings herein meet the requirements of G.S. 62-133 and the Order of the Commission entered in Docket No. G-100, Sub 22, for recovery of seventy-five percent (75%) of the costs incurred in approved exploration and drilling programs.

Finding that in this proceeding the rates of return on end of period investment and on common equity do not exceed the returns allowed Public Service in its last general rate proceeding in Docket No. G-5, Sub 102, issued February 13, 1975, the Commission is of the opinion that no further hearing is necessary or required and that the increase in rates applied for by Public Service to become effective January 1, 1976, is just and reasonable and should be permitted to become effective as filed.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of January 5, 1976, is affirmed except as modified herein and the Exceptions of the Attorney General are overruled.

2. That Public Service be, and hereby is, authorized to increase its rates to all its customers by $.0451 per Mcf effective for bills rendered on and after January 1, 1976.

3. That Public Service shall establish an account to record the revenue received from this increase in rates in such manner that the Commission can determine that the revenues collected from such rate increase are equal to seventy-five percent (75%) of the reasonable costs incurred in approved exploration and drilling programs.

4. That Public Service account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

5. That the attached notice, Appendix "A," be mailed to all customers along with their next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"

Upon application of Public Service Company of North Carolina, Inc., to recover 75% of costs incurred between June 26, 1975, and September 30, 1975, in programs of natural gas exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates in all bills rendered on or after January 1, 1976, by $.045 per Mcf on all rate schedules.

DOCKET NO. G-5, SUB 116

PURRINGTON, COMMISSIONER, DISSENTING: By allowing the Company to pass through to the consumer its costs of investment in gas exploration schemes, the source of capital funds and the attendant risks are shifted from the investor to the consumer. In a free enterprise economy, investment decisions must be voluntary not, as here, imposed by regulatory authority. In my view, this Order compels the consumer to become an involuntary investor in one of the most speculative enterprises known, and the Commission lacks authority to do so.

J. Ward Purrington, Commissioner

DOCKET NO. G-5, SUB 121

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of ) ORDER APPROVING
North Carolina, Inc., for an Adjustment ) TRACKING
of its Rates and Charges ) INCREASE

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, July 13, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, J. Ward Purrington, W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina

For the Attorney General:

Jesse C. Brake, Associate Attorney General, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 26, 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. Rule R1-17(h) established therein provides for the formation of a committee representing the gas utilities, the Commission, and the intervenor cities of Wilson, Rocky Mount, Greenville, and Monroe to select exploration projects for Commission approval. Once a project is approved by the Commission, the utilities are authorized to expend funds for such project. On or before June 1 and December 1 of each year, each utility must file with the Commission a statement of costs incurred and revenues received from the projects during the six-month period ended the previous March 31 or September 30, respectively. Along with such filing, the utility may request an increase in its rates to recover during the next six months its reasonable costs less revenues. If such revenues exceed such expenses, the utility must file to reduce its rates to amortize the difference over the next six-month period.

In its Order of June 26, 1975, the Commission approved the Graham-Chandler (now Carolina Gas Exploration Company) drilling program and authorized the North Carolina gas utilities as a group to invest in the program, either directly or through wholly-owned subsidiaries. By Order issued August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders issued August 13, 1975, the Commission approved the Enterprise Resources limited partnership (ERI, Ltd.) drilling program and the Transco-McMoRan (Transmac) joint venture drilling program for similar participation.

On December ||, |975, the Commission issued a further Order in Docket No. G-|00, Sub 22, providing that recovery by an increase in rates of costs incurred in such ventures be limited to 75% of such costs with the remaining 25% to be contributed from stockholder funds.

By Order issued January 5, |976, in Docket No. G-5, Sub ||6, the Commission approved an increase of $.045| per mcf to all rate schedules allowing Public Service to recover 75% of its exploration and drilling costs incurred between June 26 and September 30, |976. This Order was affirmed by Supplemental Order issued April 8, |976.

On June |, |976, Public Service Company of North Carolina, Inc. (hereinafter referred to as Public Service or the Company), filed in Docket No. G-5, Sub |2|, an application pursuant to Commission Rule R|-|7(h) seeking authority to increase its exploration tracking rate by $.0||7 per mcf effective July |, |976, through December 3|, |976, in order to recover 75% of its costs incurred during the six-month period ended March 3|, |976, in approved exploration and development programs. By this application Public Service also seeks to continue the $.045| per mcf exploration tracking surcharge authorized in Docket No. G-5, Sub ||6, until June 30, |976, in order to fully recover 75% of its exploration expenditures for the six-month period ended September 30, |975.

In support of its application, Public Service filed the following data:

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| Exhibit | | - Present charges by rate schedules |
| Exhibit | 2 | - Proposed charges by rate schedules |
| Exhibit | 3 | - Statement of end of period net investment |
| Exhibit | 4 | - Statement of present and fair value rate base |
| Exhibit | 5 | - Statement showing accrued depreciation balance and depreciation rates |
| Exhibit | 6 | - Statement of materials and supplies |
| Exhibit | 7 | - Statement of cash working capital |
| Exhibit | 8 | - Statement of net operating income for return for |2 months ended December 3|, |975 |
| Exhibit | 9 | - Statement showing rates of return on end of period net investment and fair value rate base |

| | | |
|---|---|---|
| | - | Statement showing rates of return on end of period common equity and fair value equity |
| Exhibit 10 | - | Balance sheet and income statement for the year ended December 31, 1975 |
| Exhibit 11 | - | Statement of costs incurred and revenues received from Commission-approved exploration programs for the six months ended March 31, 1976 |
| Exhibit 12 | - | Copy of Notice to Public |

On June 17, 1976, the Attorney General filed Notice of Intervention and Motion to Dismiss and Alternative Motion for Hearing, Notice and Suspension in this docket. By Order issued June 21, 1976, the Commission recognized the Intervention of the Attorney General.

On June 25, 1976, the Commission issued an Order setting the matter for hearing on July 13, 1976, requiring public notice, concluding that the matter is not a general rate case, and suspending the proposed exploration tracking surcharge pending the filing by Public Service of an Undertaking to refund any amounts collected thereunder which might later be found to be unjust and unreasonable by the Commission. On July 1, 1976, Public Service filed such Undertaking and the Commission issued an Order Approving Undertaking and Permitting Rates to Become Effective Pursuant to Undertaking.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The Chairman ruled that this is a case confined to the reasonableness of a specific single rate, namely, a surcharge by which the Company seeks to recover 75% of costs incurred in Commission-approved exploration and development programs. The Chairman further ruled that the proceeding was conducted in accordance with Commission Rule R1-17(h), which was established in Docket No. G-100, Sub 22, pursuant to the Commission's rulemaking authority conferred by G.S. 62-30, 31, 32, and 130.

Earl C. Chambers, Senior Vice President - Gas Supply and Technology for Piedmont Natural Gas Company and Acting Chairman of the Exploration Committee formed pursuant to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, testified and offered an exhibit outlining the results of participation by the gas utilities in approved exploration programs: Carolina Gas, Transmac, Transco-Mosbacher, and ERI, Ltd. Chambers Exhibit 1 shows that through June 30, 1976, the five North Carolina gas utilities have spent $6,044,914 in exploration and development programs. Proved reserves discovered to date are 4,955,095 mcf of gas and 359,690 bbls. of oil with a total value of

$9,012,398; probable reserves are 5,855,310 mcf and 333,345 bbls. worth $9,615,442.

H. E. Uhland, Vice President of Lithium Corporation of America, testified concerning his company's operations and its dependence upon natural gas. Mr. Uhland stated that 79.6% of Lithium Corporation's total dollar sales and total energy consumed is in the following areas: energy conservation; pharmaceuticals, medical supplies and sanitation; and defense and critical industrial needs. Stating that the Commission's method of allowing gas utilities to take part in exploration and development programs and to share the costs and risks with their customers is fair, Mr. Uhland added that industrial customers would like to use the bulk of the gas discovered and pay the bulk of the surcharge. In response to questioning by the Attorney General, Mr. Uhland reiterated that, without the monies generated by the surcharge, a local utility such as Public Service would be unable to engage in exploration activities.

Ralph Young, Vice President of Development, Wickes Corporation, a manufacturer of automotive products employing over 2,000 people, testified that his company's manufacturing facility requires approximately 100 million cubic feet of natural gas which is used in direct flame process. Mr. Young stated that the loss of natural gas would shut down a large portion of his company's business and therefore his company believes exploration programs to be in the best interest of its employees and its customers.

H. B. Foster, President and General Manager of Statesville Brick Company, testified in his capacity as Chairman of the Energy Committee for the Brick Association of North Carolina. Mr. Foster stated that the Brick Association does not object to paying a reasonable surcharge for the development of new sources of natural gas and that it views the benefits to be derived from exploration programs as its best hope for relief in the foreseeable future. On cross-examination by the Attorney General, Mr. Foster stated that, given the relative size and lack of expertise of the brick companies in the State, the possibility of buying gas in place and having it shipped to North Carolina is virtually hopeless.

James R. Moore, Vice President - Construction Equipment and Energy for Hardee Food System, testified concerning his company's demand for natural gas. He stated that Hardee's uses an average of 1.5 billion btu's of gas energy per restaurant which, if replaced by electricity, would cost $1,947,000 instead of $531,000. Mr. Moore further stated that Hardee's, having taken steps to control utility costs and conserve natural gas, hopes the Commission will see that gas supplies are increased.

Bob Smith, testifying for United Merchants Manufacturers, Inc., stated that his company operates over 15 manufacturing

process plants in the Carolinas and Georgia, including Uniglass Industries in Statesville and facilities in Shelby, Old Fort, and Winston-Salem. A manufacturer of key and essential products for use in the electric and pollution control industry as well as decorative fabrics, United Merchants considers natural gas to be an irreplaceable, vital commodity. Mr. Smith further testified that the proposed rate adjustment is an investment in the well-being and prosperity of the State.

T. A. Jacobs, Manager of Maintenance, Engineering and Utilities for Allied Fibers Division of Allied Chemical Company, testified that his company uses natural gas in the production of polyester resin fibers and supports exploration by the gas utilities as a means of obtaining adequate supplies for the future.

Jerry T. Roberts, Secretary-Treasurer of the North Carolina Textile Manufacturers' Association, testified that textile manufacturers and fiber producers employ approximately 40% of the State's manufacturing work force and are almost entirely dependent on natural gas for the manufacturing and finishing of their products. Mr. Roberts stated that the textile manufacturers support the gas distributors' participation in exploration programs and their proposal to increase rates to cover the costs.

Robert Cameron Cook, representing Burlington Industries, testified that his company is a large user of natural gas, is very interested in the exploration programs, and supports them totally. Mr. Cook further testified that costs of such programs should be recovered on the basis of usage, with everyone paying his pro rata share, since all users will benefit if the programs are successful. In response to questioning by the Attorney General, Mr. Cook stated that purchasing gas in the field and transporting it to North Carolina is not a very acceptable alternative to exploration programs due to the costs and risks involved.

E. L. Flanagan, Jr., Vice President and Treasurer of Public Service Company, testified concerning the application and exhibits filed by Public Service in this docket. Mr. Flanagan testified that the rate adjustment was computed by determining the amount of expenditures in approved projects during the six-month period October 1, 1975, through March 31, 1976, and adding to that other exploration expenses such as legal expenses, audit expenses, and travel expenses and an allowance for funds on the unrecovered portion of these expenditures. Public Service then divided 75% of the total cash expenditures by the estimated volume of gas sales during the period July 1, 1976, through December 31, 1976, to arrive at an increment of $.0568 per mcf. Subtracting the tracking adjustment presently in effect, Mr. Flanagan stated he arrived at an adjustment of $.0117 per mcf effective July 1, 1976. On cross-examination by the Attorney General, Mr. Flanagan stated that he used the prime

rate in effect at the beginning of each month to compute the interest on unrecovered funds.

C. M. Dickey, Vice President - Gas Supply Services, Public Service Company, testified that he is also Vice President and General Manager of Tar Heel Energy Corporation, a wholly-owned subsidiary formed for the purpose of exploration by Public Service, and is a member of the Exploration Committee set up pursuant to Commission Rule R1-17(h). Mr. Dickey sponsored an exhibit summarizing the exploration activities of Tar Heel Energy Corporation for the six-month period ended June 30, 1976.

Donald E. Daniel, Coordinator of the Accounting Gas and Water Section of the Commission Staff, testified that the Staff reviewed and analyzed the exhibits and supporting data submitted by Public Service. The Staff determined that the expenditures reported by the Company were properly related to Commission-approved exploration programs and were expended during the period October 1, 1975, through March 31, 1976, and that the application was otherwise in conformity with Rule R1-17(h).

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Engineering Staff, testified that the Staff analyzed the application and exhibits and cross-checked volume data and statistics with comparable information contained in Commission records. Based upon its examination of the application and exhibits, the Staff verified Public Service's calculation of the proposed tracking rate.

Based on the evidence presented at the hearing, the application and exhibits filed by Public Service, and the entire record in this matter, the Commission makes the following

## FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That as of June 30, 1976, a total of 51 wells have been drilled in the four Commission-approved exploration programs resulting in 37 dry wells, 11 gas wells, and 3 oil wells. Public Service is participating in the four programs as follows: Carolina Gas - 27%; Transmac - 6.250%; Transco-Mosbacher - 8.333%; and ERI, Ltd. - 9.60%.

3. That a total of $6,044,914 has been spent in these programs by the five North Carolina gas utilities. Of this amount, Public Service has spent $2,090,129. Estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 4,955,095 mcf; probable reserves - 5,855,310 mcf; possible reserves - 8,831,253 mcf; and total reserves 19,641,658 mcf. Public Service's shares

are 1,814,314 mcf; 2,177,886 mcf; 3,299,735 mcf; and 7,291,935 mcf, respectively. Estimated oil reserves from the four programs for all gas companies are as follows: proved reserves - 359,690 bbls.; probable reserves - 333,345 bbls.; possible reserves - 401,719 bbls.; and total reserves - 1,094,754 bbls. Public Service's shares are 122,444 bbls.; 114,728 bbls.; 141,273 bbls.; and 378,445 bbls., respectively.

4. That estimated values of the oil and gas reserves from the four programs for all gas companies are as follows: proved reserves - $9,012,398; probable reserves - $9,615,442; possible reserves - $13,362,643; and total reserves - $31,990,483. The values to Public Service are $3,195,482; $3,472,018; $4,893,294; and $11,560,794, respectively.

5. That the test period used in this proceeding is the 12 months ended December 31, 1975.

6. That the rate which Public Service is seeking to put into effect in this proceeding is $.0568 per mcf to all customers which will enable Public Service to recover over the six-month period from July 1, 1976, to December 31, 1976, 75% of the reasonable costs incurred by the Company between October 1, 1975, and March 31, 1976, in Commission-approved exploration programs.

7. That all of the expenditures which Public Service is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

8. That the exhibits filed by Public Service show the following:

(i) The original cost of Public Service's property used and useful in providing service to the public is $79,529,643. (Exhibit 3)

(ii) The fair value of Public Service's property used and useful in providing service to the public is $96,895,611. (Exhibit 4)

(iii) Public Service's revenues under rates in effect prior to the increase requested in this docket are estimated at $54,608,964. (Exhibit 9)

(iv) Public Service's reasonable operating expenses are approximately $44,952,110 before expenditures in connection with Commission-approved exploration programs. (Exhibit 9)

(v) As a result of expenditures in approved exploration programs, Public Service has

increased its ordinary and reasonable expenses by $893,798. (Exhibit 11)

(vi) After accounting and pro forma adjustments Public Service's rate of return on end of period net investment is 8.27% and on fair value rate base is 6.79%. (Exhibit 9)

9. That the rates of return found just and reasonable by the Commission in Docket No. G-5, Sub 102, Public Service's last general rate case, are as follows:

| | |
|---|---|
| End of period net investment | 9.33% |
| Fair value rate base | 7.57% |
| End of period common equity | 16.50% |
| Fair value equity | 8.74% |

10. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

## CONCLUSIONS

An emergency natural gas shortage continues to threaten the well-being of the citizens of North Carolina. The five natural gas distribution companies serving the State are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their supply of natural gas. Transco's system-wide deficiencies have made it difficult for these gas utilities to meet the needs of their high priority customers. Without additional supplies of gas, they will be unable to render adequate and efficient service.

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternate methods of increasing the supply of natural gas, that the most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The Commission therefore established a procedure whereby the North Carolina gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenses at six-month intervals.

The Commission is of the opinion that, while the precise effect on cost and volumes of gas is not yet known, the evidence in this proceeding clearly shows that the ratepayers will ultimately receive substantial benefits. To alter the procedure established under Rule R1-17(h) at this time would be to deprive the ratepayers not only of additional supplies of natural gas which they helped to

discover but also of a share in the profits they helped to produce.

Finding that the proposed rates will not result in Public Service's rates of return on end of period net investment and on common equity exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the application and exhibits filed herein meet the requirements of Rule R1-17(h) for the recovery of 75% of the reasonable costs incurred by Public Service during the period October 1, 1975, through March 31, 1976, in approved exploration and drilling programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Public Service Company of North Carolina, Inc., be, and hereby is, authorized to continue until June 30, 1976, the collection of the $.0451 per mcf exploration tracking surcharge approved in Docket No. G-5, Sub 116, in order to recover 75% of reasonable expenditures in Commission-approved exploration and development programs during the period June 26, 1975, through September 30, 1975.

2. That Public Service be, and hereby is, authorized to increase its exploration tracking surcharge to all customers by $.01117 per mcf surcharge effective on bills rendered on or after July 1, 1976, in order to recover 75% of reasonable expenditures in Commission-approved exploration and development programs during the period October 1, 1975, through March 31, 1976.

3. That Public Service shall establish an account to record the revenue received from this increase in such a manner that the Commission can determine that the revenues collected from such increase are equal to 75% of the reasonable amounts refunded in approved exploration and development programs during the period October 2, 1975, through March 31, 1976.

4. That Public Service shall account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

5. That the attached notice, Appendix A, be mailed to all customers along with their next bills advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Upon application by Public Service Company of North Carolina, Inc., to recover 75% of costs incurred between October 1, 1975, and March 31, 1976, in programs of exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates for all bills rendered on or after July 1, 1976, by $.0117 per mcf on all rate schedules.

DOCKET NO. G-5, SUB 121

COMMISSIONER PURRINGTON, DISSENTING: Having dissented in previous dockets allowing recovery of costs associated with exploration drilling programs, I cannot concur in the decision here. In my opinion, the expenditures which Public Service is seeking to recover are not ordinary and reasonable expenses of a public utility gas distribution company.

J. Ward Purrington, Commissioner

DOCKET NO. G-1, SUB 47B

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of United Cities Gas Company ) ORDER APPROVING
for an Adjustment of its Rates and Charges ) RATE

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on July 20, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, and W. Scott Harvey

APPEARANCES:

For the Applicant:

James T. Williams, Jr., Brooks, Pierce, McLendon, Humphrey and Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Intervenor:

Jerry B. Fruitt, Associate Attorney General, North Carolina Attorney General's Office, Justice Building, Post Office Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 19, 1976, United Cities Gas Company (hereinafter referred to as United Cities or the Company) filed with the Commission schedules showing computation of an adjustment in the Curtailment Tracking Rate (CTR) approved for the Company in Docket No. G-1, Sub 47. United Cities proposed to increase its rates by $.0117 per mcf effective June 15, 1976. On May 28, 1976, United Cities filed revised schedules increasing the rates by $.0115 per mcf.

Upon reconsideration of the application filed by United Cities, the letter of approval, and the entire record in this docket, the Commission concluded that its approval of the revised tariffs filed by United Cities on May 28, 1976, should be rescinded. By Order issued June 29, 1976, the Commission set the matter for hearing on July 20, 1976, and required notice to the public. The Commission ordered that any amounts theretofore collected under the proposed CTR should be refunded unless the Company filed an Undertaking to refund such amounts as may later be found unjust and unreasonable. On July 13, 1976, United Cities filed, and by Order issued July 15, 1976, the Commission approved such Undertaking.

On July 6, 1976, the Attorney General filed Notice of Intervention, and the Commission issued an Order recognizing said Intervention.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner, Mr. Purrington, ruled that this is a case confined to the reasonableness of a specific single rate, namely, the curtailment tracking rate and involves questions which do not require a determination of the entire rate structure and overall rate of return. Commissioner Purrington further ruled that the proceeding was conducted pursuant to the Commission's rate-making authority conferred by G.S. 62-30, 31, 32, and 130.

Glen Rogers, Vice President, Gas Supply, for United Cities, testified that he prepared the Company's curtailment tracking filing and did so in conformity with the Commission's Orders in Docket No. G-1, Sub 47.

Donald E. Daniel, Coordinator of the Gas and Water Section of the Commission's Accounting Division, testified that the Accounting Staff received and analyzed the exhibits submitted by the Company, including the calculation of each component of the CTR. Mr. Daniel stated it is his belief

that the filing is in conformity with the Commission's Orders and rulings on the Company's CTR.

Daniel M. Stone, Utilities Engineer in the Gas Section of the Commission Staff, testified that the Engineering Staff analyzed the application and exhibits, cross-checking volume data and statistics with comparable information contained in Commission records, and computed the CTR. The Staff verified the calculation of the $.0|5 per mcf increase and recommended that it be approved.

Based on the foregoing, the application filed by United Cities, and the entire record in this matter, the Commission makes the following

## FINDINGS OF FACT

|. That United Cities Gas Company is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That the application in this docket is properly before the Commission pursuant to the Commission's Orders in Docket No. G-|, Subs 47 and 47A wherein the Commission approved a Curtailment Tracking Rate (CTR) to allow United Cities to track the revenue effects of increased or decreased curtailment.

3. That by this application United Cities is seeking to increase its rates by $.0|5 per mcf on all rate schedules effective June |5, |976.

4. That the $.0|5 CTR per mcf has only one component, the current tracking increment.

Whereupon, the Commission reaches the following

## CONCLUSIONS

In its Order Granting Partial Rate Increase for United Cities issued July |6, |975, in Docket No. G-|, Sub 47, the Commission recognized that, because of the uncertainty in future availability of gas supplies, it was impossible to accurately forecast future revenues and expenses for the Company. The Commission therefore concluded that United Cities' proposed "tracking" formula was a just and reasonable means of allowing the Company to maintain a base period margin (the difference between its revenues and the cost of purchased gas plus gross receipts taxes) thereby avoiding the necessity of a general rate case each time the level of curtailment changes.

Since the CTR is a rate set for the future, it is necessarily based on projected volumes of gas. The CTR approved for United Cities provides that the Company shall file rate schedules and revisions every six months reflecting the actual effect of changes in curtailment on

the margin. The CTR is then adjusted or "trued up" to reconcile actual experience with the projected experience at the time of the last filing. In the future, as curtailment decreases and natural gas supplies improve, the CTR will be reduced.

The CTR filed by United Cities in this docket has only one component, the current tracking increment and no adjustment for overcollections or undercollections during the prior period. The record shows that the $.0|5 per mcf rate was properly computed. Accordingly, the Commission concludes that the rate should be approved effective June |5, |976.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the Order of the Commission issued June 29, |976, suspending the rates in this docket be, and is hereby, rescinded and the rates as filed on May 28, |976, and approved on June 3, |976, which reflect an increase of $.0|5 per mcf on all rate schedules are approved and may remain in effect.

ISSUED BY ORDER OF THE COMMISSION.

This 22nd day of September, |976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-|, SUB 59

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of United Cities Gas Company<br>for an Adjustment of its Rates and<br>Charges | ) | ORDER APPROVING<br>TRACKING INCREASE |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, July |3, |976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Commissioners Ben E. Roney, W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

J. T. Williams, Jr., Brooks, Pierce, McLendon, Humphrey and Leonard, Post Office Drawer U, Greensboro, North Carolina 27402

For the Attorney General:

Jesse C. Brake, Associate Attorney General, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 26, 1975, in Docket No. G-100, Sub 22, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission-approved exploration programs would be allowed to track their costs for exploration and development. Rule R1-17(h) established therein provides for the formation of a committee representing the gas utilities, the Commission, and the intervenor cities of Wilson, Rocky Mount, Greenville, and Monroe to select exploration projects for Commission approval. Once a project is approved by the Commission, the utilities are authorized to expend funds for such project. On or before June 1 and December 1 of each year, each utility must file with the Commission a statement of costs incurred and revenues received from the projects during the six-month period ended the previous March 31 or September 30, respectively. Along with such filing, the utility may request an increase in its rates to recover during the next six months its reasonable costs less revenues. If such revenues exceed such expenses, the utility must file to reduce its rates to amortize the difference over the next six-month period.

In its Order of June 26, 1975, the Commission approved the Graham-Chandler (now Carolina Gas Exploration Company) drilling program and authorized the North Carolina gas utilities as a group to participate in the program, either directly or through wholly-owned subsidiaries. By Order issued August 4, 1975, the Commission approved the Transco-Mosbacher joint venture drilling program, and by Orders issued August 13, 1975, the Commission approved the Enterprise Resources limited partnership (ERI, Ltd.) drilling program and the Transco-McMoRan (Transmac) joint venture drilling program for similar participation.

On December 11, 1975, the Commission issued a further Order in Docket No. G-100, Sub 22, providing that recovery by an increase in rates of costs incurred in such ventures be limited to 75% of such costs with the remaining 25% to be contributed from stockholder funds.

On June 18, 1976, United Cities Gas Company (hereinafter referred to as United Cities or the Company) filed in Docket No. G-1, Sub 59, a letter and rate schedules treated as an application pursuant to Commission Rule R1-17(k) seeking authority to increase its rates by $.160 per mcf effective July 1, 1976, through December 31, 1976, in order to recover 75% of its costs incurred through May 31, 1976, in approved exploration programs.

On June 23, 1976, the Attorney General filed Notice of Intervention and Motion to Dismiss and Alternative Motion for Hearing, Notice and Suspension in the above docket. By Order issued June 28, 1976, the Commission recognized the Intervention of the Attorney General.

Also, on June 28, 1976, the Commission issued its Order setting the application for hearing on July 13, 1976, requiring public notice, concluding that the matter is not a general rate case, and suspending the proposed exploration tracking surcharge pending the filing by United Cities of an Undertaking to refund such amounts collected thereunder as may later be found unjust and unreasonable. On July 14, 1976, United Cities filed such Undertaking which was approved by Commission Order permitting the proposed rates to become effective pursuant thereto.

On July 13, 1976, United Cities filed a summary of rate calculation and rates, to replace those previously filed in this docket, eliminating from the requested surcharge amounts expended by the Company prior to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, and thus reducing the proposed surcharge to $.140 per mcf. Said filing was accepted by ruling of the Chairman, Mr. Deane, when the matter came on for hearing.

The Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner ruled that this is a case confined to the reasonableness of a specific single rate, namely, a surcharge by which the Company seeks to recover 75% of costs incurred in Commission-approved exploration and development programs. The presiding Commissioner further ruled that the proceeding was conducted in accordance with Commission Rule R1-17(k), which was established in Docket No. G-100, Sub 22, pursuant to the Commission's rulemaking authority conferred by G.S. 62-30, 31, 32, and 130.

Earl C. Chambers, Senior Vice President - Gas Supply and Technology for Piedmont Natural Gas Company and Acting Chairman of the Exploration Committee formed pursuant to the Commission's Order of June 26, 1975, in Docket No. G-100, Sub 22, testified and offered an exhibit outlining the results of participation by the gas utilities in approved exploration programs: Carolina Gas, Transmac, Transco-Mosbacher, and ERI, Ltd. Chambers Exhibit 1 shows that through June 30, 1976, the five North Carolina gas utilities have spent $6,044,914 in exploration and development

programs. Proved reserves discovered to date are 4,955,095 mcf of gas and 359,690 bbls. of oil with a total value of $9,012,398; probable reserves are 5,855,310 mcf and 333,345 bbls. worth $9,615,442.

H. B. Foster, President and General Manager of Statesville Brick Company, testified in his capacity as Chairman of the Energy Committee for the Brick Association of North Carolina. Mr. Foster stated that the Brick Association does not object to paying a reasonable surcharge for the development of new sources of natural gas and that it views the benefits to be derived from exploration programs as its best hope for relief in the foreseeable future. On cross-examination by the Attorney General, Mr. Foster stated that, given the relative size and lack of expertise of the brick companies in the State, the possibility of buying gas in place and having it shipped to North Carolina is virtually hopeless.

James R. Moore, Vice President - Construction Equipment and Energy for Hardee Food System, testified concerning his company's demand for natural gas. He stated that Hardee's uses an average of 1.5 billion btu's of gas energy per restaurant which, if replaced by electricity, would cost $1,947,000 instead of $531,000. Mr. Moore further stated that Hardee's, having taken steps to control utility costs and conserve natural gas, hopes the Commission will see that gas supplies are increased.

Robert Cameron Cook, representing Burlington Industries, testified that his company is a large user of natural gas, is very interested in the exploration programs, and supports them totally. Mr. Cook further testified that costs of such programs should be recovered on the basis of usage, with everyone paying his pro rata share, since all users will benefit if the programs are successful. In response to questioning by the Attorney General, Mr. Cook stated that purchasing gas in the field and transporting it to North Carolina is not a very acceptable alternative to exploration programs due to the costs and risks involved.

Glenn Rogers, Vice President - Gas Supply for United Cities Gas Company, testified and offered an exhibit concerning the participation of UCG Finance Corporation in Commission-approved exploration and drilling programs. Mr. Rogers stated that his company could not have invested in such programs without a procedure for recovery of expenses.

Donald E. Daniel, Coordinator, Gas and Water Section of the Commission Staff, testified that he had reviewed the application and supporting data filed by United Cities on July 13, 1973, and verified that the expenditures were incurred in approved programs, during the period June 26, 1975, through March 31, 1976, and that the calculation of the surcharge appeared to be proper.

Based on the evidence presented at the hearing, the application and exhibits filed by United Cities, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That United Cities Gas Company is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That as of June 30, 1976, a total of 51 wells have been drilled in the four Commission-approved exploration programs resulting in 37 dry wells, 11 gas wells, and 3 oil wells. United Cities is participating in the four programs as follows: Carolina Gas - 2.00%; Transmac - .375%; Transco-Mosbacher - 0%; and ERI, Ltd. - .45%.

3. That a total of $6,044,914 has been spent in these programs by the five North Carolina gas utilities. Of this amount, United Cities has spent $79,532. Estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 4,955,095 mcf; probable reserves - 5,855,310 mcf; possible reserves - 8,831,253 mcf; and total reserves - 19,641,658 mcf. United Cities' shares are 68,297 mcf; 66,414 mcf; 106,825 mcf; and 241,536 mcf, respectively. Estimated oil reserves from the four programs for all gas companies are as follows: proved reserves - 359,690 bbls.; probable reserves - 333,345 bbls.; possible reserves - 401,719 bbls.; and total reserves - 1,094,754 bbls. United Cities' shares are 6,238 bbls.; 5,240 bbls.; 6,249 bbls.; and 17,727 bbls., respectively.

4. That estimated values of the oil and gas reserves from the four programs for all gas companies are as follows: proved reserves - $9,012,398; probable reserves - $9,615,442; possible reserves - $13,362,643; and total reserves - $31,990,483. The values to United Cities are $138,662; $125,521; $177,314; and $441,497, respectively.

5. That the rate which United Cities is seeking to put into effect in this proceeding is $.140 per mcf to all customers which will enable United Cities to recover over the six-month period from July 1, 1976, to December 31, 1976, 75% of the reasonable costs incurred by the Company between June 26, 1975, and March 31, 1976, in Commission-approved exploration programs.

6. That all of the expenditures which United Cities is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenses of a public utility gas distribution company.

7. That, since exploration surcharge collections represent the recovery of costs not included in operating expenses, the proposed increase will not result in the

Company's rates of return exceeding those approved in its last general rate case.

Wherefore, based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

An emergency natural gas shortage continues to threaten the well-being of the citizens of North Carolina. The five natural gas distribution companies serving the State are dependent on Transcontinental Gas Pipe Line Corporation (Transco) for the whole of their supply of natural gas. Transco's system-wide deficiencies have made it difficult for these gas utilities to meet the needs of their high priority customers. Without additional supplies of gas, they will be unable to render adequate and efficient service.

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternate methods of increasing the supply of natural gas, that the most dependable and economical way of obtaining needed additional gas is through programs of exploration and development. The Commission therefore established a procedure whereby the North Carolina gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenses at six-month intervals.

The Commission is of the opinion that, while the precise effect on cost and volumes of gas is not yet known, the evidence in this proceeding clearly shows that the ratepayers will ultimately receive substantial benefits. To alter the procedure established under Rule R1-17(h) at this time would be to deprive the ratepayers not only of additional supplies of natural gas which they helped to discover but also of a share in the profits they helped to produce.

Finding that the proposed rates will not result in United Cities' rates of return on end of period net investment and on common equity exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the application and exhibits filed herein meet the requirements of Rule R1-17(h) for the recovery of 75% of the reasonable costs incurred by United Cities during the period October 1, 1975, through March 31, 1976, in approved exploration and drilling programs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That United Cities Gas Company be, and hereby is, authorized to increase its rates to all customers by $.140 per mcf exploration tracking surcharge effective on bills rendered on or after July 1, 1976, in order to recover 75% of reasonable expenditures in Commission-approved

exploration and development programs during the period June 26, 1975, through March 31, 1976.

2. That United Cities shall establish an account to record the revenue received from this increase in such a manner that the Commission can determine that the revenues collected from such increase are equal to 75% of the reasonable amounts refunded in approved exploration and development programs during the period October 2, 1975, through March 31, 1976.

3. That United Cities shall account for all natural gas received or revenues received from the sale of other hydrocarbons in accordance with the procedures set forth in the general Order issued in Docket No. G-100, Sub 22.

4. That the attached notice, Appendix A, be mailed to all customers along with their next bills advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Upon application by United Cities Gas Company to recover 75% of costs incurred between June 26, 1975, and March 31, 1976, in programs of exploration and development approved by the North Carolina Utilities Commission, the Commission approved increased rates for all bills rendered on or after July 1, 1976, by $.140 per mcf on all rate schedules.

DOCKET NO. G-1, SUB 59

COMMISSIONER PURRINGTON, DISSENTING: Having dissented in previous dockets allowing recovery of costs associated with exploration drilling programs, I cannot concur in the decision here. In my opinion, the expenditures which United Cities is seeking to recover are not ordinary and reasonable expenses of a public utility gas distribution company.

J. Ward Purrington, Commissioner

DOCKET NO. G-9, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of Piedmont Natural Gas Company, Inc. - Investigation of Level of Rates and Rate of Return on 1975 Operations | ) FINAL ORDER CONCLUDING ) INVESTIGATION AND ) APPROVING REFUND |

HEARD IN: The Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 3, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney, Tenney I. Deane, Jr., George T. Clark, Jr., J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Jerry W. Amos; Brooks, Pierce, McLendon, Humphrey & Leonard; Attorneys at Law; P. O. Drawer U; Greensboro, North Carolina 27402

For the Intervenor:

Jerry B. Fruitt, Associate Attorney General, Office of the North Carolina Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp, Commission Attorney, North Carolina Utilities Commission, P. O. Box 991 - Ruffin Building, Raleigh, North Carolina 27602; Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991 - Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 15, 1975, this Commission initiated this docket by issuing its Order for Investigation and Report of Current Level of Earnings. In that Order the Commission observed that financial reports of Piedmont Natural Gas Company, Inc. (herein called "Piedmont"), published for the 12-month period ended June 30, 1975, showed substantial increases in earnings over the comparative 12-month period ended June 30, 1974, and the Commission ordered an investigation to determine if the present rates of Piedmont are just and reasonable under the provisions of the North Carolina Public Utilities Act and the Order of this Commission fixing a fair rate of return on the fair value of the property of Piedmont used and useful

in service to the public. The Commission ordered Piedmont to file with the Commission a complete report of its financial operations for the 12 months ended June 30, 1975, including comparisons of said financial operations with the respective 12-month periods ended June 30, 1971, through June 30, 1974, respectively, and including all information, data, schedules and formats required by NCUC Form G-1 "Rate Case Information Report - Gas Companies" as adopted in Docket No. M-100, Sub 58, and to the extent otherwise applicable and not included in NCUC Form G-1, to file the exhibits prescribed in NCUC Rule R1-17(b), including a schedule showing a comparison of said financial data with the comparable findings of the Commission in said Docket No. G-9, Sub 131, for revenues, expenses and income for the test period ending April 30, 1974. The Commission further ordered the Commission Staff to investigate and review all the operations, rates, revenues, expenses and rate of return of Piedmont for the 12 months ended June 30, 1975, and to file a report of its findings in this docket with the Commission, including a statement of the current rate of return of Piedmont.

On August 28, 1975, Notice of Intervention in this case was filed by the Attorney General on behalf of the using and consuming public of the State of North Carolina. The Commission, by Order issued on September 5, 1975, recognized the intervention of the Attorney General.

On September 15, 1975, Piedmont filed with the Commission the report of financial operations and exhibits required by this Commission's Order of August 15, 1975.

On September 23, 1975, Piedmont filed with this Commission a Petition in Docket No. G-9, Sub 150, for authority to adjust and increase its rates and charges effective October 1, 1975, to track an increase to it from its suppliers. On September 30, 1975, this Commission suspended the schedules of rates proposed to become effective on October 1, 1975, pending completion of the Commission's investigation in this docket. On October 1, 1975, Piedmont filed with this Commission a Motion to permit the rates proposed in Docket No. G-9, Sub 150, to become effective pursuant to an undertaking requiring Piedmont to refund any amounts of the requested increase, if any, found unjust and unreasonable by this Commission. Piedmont's Motion was allowed by Order of this Commission dated October 3, 1975.

On October 1, 1975, Piedmont filed with this Commission a Petition in Docket No. G-9, Sub 151, for authority to adjust and increase its rates and charges effective November 1, 1975, to track additional increases to it from its suppliers, Transcontinental Gas Pipe Line Corporation (Transco) and Carolina Pipe Line Company. On October 22, 1975, Piedmont filed with this Commission a Motion to permit the rates proposed in Docket No. G-9, Sub 151, to become effective pursuant to an undertaking requiring Piedmont to refund any amounts of the requested increase, if any, found

unjust and unreasonable by this Commission. On October 31, 1975, this Commission issued its Order approving Piedmont's undertaking, ordering Piedmont to file revised rate schedules to reflect the fact that in Docket No. RP73-3 the Federal Power Commission rejected the advance payment portion of Transco's tracking filing which was to become effective November 1, 1975, and permitting the revised rate schedules to become effective November 1, 1975, pursuant to said undertaking.

On November 19, 1975, after notice duly given to all parties of record, a conference was held on this docket in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, before the full Commission. Representatives of Piedmont, the Commission Staff, and the Attorney General were present at the conference.

On December 15, 1975, the Commission Staff completed its investigation and filed its report as requested by this Commission's Order of August 15, 1975. The following is a summary of pertinent information relating to the Company's rate of return:

| | Approved Docket No. G-9 Sub 13 | Staff | Company |
|---|---|---|---|
| Original cost net investment | $82,809,000 | $84,983,000 | $82,546,397 |
| Common equity | 28,354,000 | 32,659,000 | 32,135,652 |
| Net operating income for returns | 7,816,000 | 8,632,000 | 7,210,046 |
| Rate of return on original cost net investment | 9.44% | 10.16% | 8.75% |
| Rate of return on common equity | 14.06% | 15.41% | 10.60% |

The difference between Staff and Company original cost net investment and common equity results from different methods of calculating working capital (Staff used the formula approach and the Company used the balance sheet approach) and treatment of deferred income taxes and other deferred credits (the Staff included deferred income taxes in the capital structure at zero weight and did not consider other deferred credits; the Company deducted both of these items in computing original cost net investment).

The major differences between the Staff and Company adjustments to net operating income are due to the adjustments to revenue and cost of gas, including curtailment. During the test period ended June 30, 1975,

Piedmont sold 1,290,998 Mcf of gas in North Carolina under the emergency rate schedule. In computing its revenues and cost of gas for the test period, Piedmont reduced the emergency sales to 284,000 Mcf, the volumes sold during the 12-month test period used in Docket No. G-9, Sub 131, and the volumes upon which the curtailment tracking adjustment formula was approved. The Staff in its report eliminated none of these emergency sales. The Staff's report states that, if the Staff had reduced emergency sales to the level used by Piedmont, net operating income would have been reduced by $491,162, and the rates of return on original cost net investment would have been reduced from 10.16% to 9.58% and on common equity from 15.41% to 13.90%.

Other factors contributing to increased net operating income during the test period were (1) a special purchase of gas from Washington Gas Light and the sale of this gas to customers in North Carolina, (2) a special sale of gas to North Carolina Natural Gas Corporation and (3) distribution of sales in North Carolina to conform to Piedmont's priority system as established by this Commission.

Effective January 1, 1975, Piedmont increased its rates by $.08363 per Mcf under the provisions of its curtailment tracking adjustment formula. From January 1, 1975, through June 30, 1975, Piedmont's volume of pipeline gas from its suppliers increased over the amount estimated at the time of the filing of its curtailment tracking adjustment. As a result of this increased volume of gas (which could not have been anticipated by Piedmont or the Commission at the time of Piedmont's filing) Piedmont collected $321,443 (Staff Report Schedule 4, line 1) in excess margin through June 30, 1975. Effective August 1, 1975, Piedmont increased its rates an additional $.0522 per Mcf in Docket No. G-9, Sub 131B, pursuant to its curtailment tracking adjustment formula. At the time of that increase, provision was made in the curtailment tracking adjustment formula to refund (during the ensuing 12 months) the $321,443 over-collected through June 30, 1975. However, in computing its adjustment effective August 1, 1975, Piedmont again estimated its volume of pipeline gas from its suppliers at less than it has or will receive for the period July 1, 1975, through December 31, 1975. As a result of this increased volume of gas (which could not have been anticipated by Piedmont or the Commission at the time of Piedmont's filing) the Commission has estimated that Piedmont has collected substantial additional amounts of margin in excess of the margin anticipated in that filing. The Commission has estimated the total excess margin collected by Piedmont during 1975 (not yet returned to its customers) to be approximately $1,300,000.

On December 30, 1975, the Commission issued its Proposed Order Concluding Investigation and Requiring Refund and Setting Hearing in this Docket, to which on January 16, 1976, both the Attorney General and Piedmont filed Exceptions and Request to be Heard.

On January 29, 1976, Piedmont filed in Docket No. G-9, Sub 131C, rate schedules effective February 1, 1976, providing for a decrease of $.18705 per Mcf pursuant to its curtailment tracking adjustment formula to refund $1,323,365 in excess margin collected from its customers. This filing did not include excess revenues received from selling greater-than-base-period emergency gas volumes at higher-than-normal rates, nor was it adjusted to coincide with Transco's winter entitlement period.

On February 3, 1976, the Commission heard on oral argument and affidavits Exceptions filed by the Attorney General and Piedmont to the proposed Order as it concerns Docket Nos. G-9, Sub 131A, Sub 131B, and Sub 148. On February 18, 1976, a hearing was held in the matter of the tracking increases, Docket Nos. G-9, Sub 150 and Sub 151, which will be determined in a separate order.

Having considered the Staff Report on Investigation of Operations, the arguments presented by the Company, the Attorney General, and the Commission Staff, and the entire record in this docket, the Commission concludes that the proposed Order should be modified and the instant Order adopted as the final Order of the Commission.

WHEREFORE, the Commission makes the following

FINDINGS AND CONCLUSIONS

1. Due to the inclusion in net operating income of certain nonrecurring revenues, the rate of return on end-of-period common equity as computed by the Staff is in excess of the amount provided for Piedmont in its last general rate case.

2. Since July 1, 1975, Piedmont has collected approximately $1,300,000 of excessive margin due to the fact that its pipeline suppliers have allocated it more gas than was anticipated by Piedmont or by this Commission at the time of the filing of its curtailment tracking adjustments in Docket Nos. G-9, Sub 131A and Sub 131B. The Commission concludes that this excess margin should be refunded to Piedmont's customers through provision in Piedmont's curtailment tracking adjustment formula filed January 29, 1976. Once the margin resulting from these additional volumes of gas is refunded to Piedmont's customers, its rate of return on original cost net investment and common equity will be substantially reduced.

3. The curtailment tracking adjustment formula approved for Piedmont in Docket No. G-9, Sub 131, was designed to allow the Company to maintain its margin based on gains and losses in revenues depending on the existing level of future curtailment.

4. Future filings under the curtailment tracking adjustment formula should take into account sales of

emergency gas in excess of base period volumes and normal prices and should reflect exact curtailment experience.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That rate schedules filed by Piedmont in Docket No. G-9, Sub 13C, under its curtailment tracking adjustment formula to adjust its rates beginning with the first billing cycle after February 1, 1976, and ending with the last billing cycle for the month of May, 1976, by an amount which will cause Piedmont to refund to its customers the excess margin earned on those volumes of pipeline gas received from its suppliers during 1975 in excess of the volumes of such gas estimated in its filings in Docket Nos. G-9, Sub 13A and Sub 13B, be approved. The exact amount of the reduction (estimated at approximately $1,300,000) is to be determined under the curtailment tracking adjustment formula as approved by this Commission in Docket No G-9, Sub 13.

2. That future filings under the curtailment tracking adjustment formula include sales of emergency gas in excess of base period volumes and normal gas prices. The margin to be included is the difference between the emergency gas rate and the rate at which the gas would have been sold under the priority system established by Commission Rule R6-19.2.

3. That future curtailment tracking adjustment filings be revised 45 days after each Transco entitlement period to show exact curtailment experience, the filings to be based on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period.

4. That the curtailment tracking adjustment formula approved for Piedmont in Docket No. G-9, Sub 13, except as modified hereinabove, be reaffirmed as filed, and that all future curtailment adjustment tracking filings be filed in accordance with the procedures established herein.

5. That Piedmont file each month a schedule showing the sales made during the previous month in accordance with Piedmont's curtailment priorities under Commission Rule R6-19.2 for total company and North Carolina. This schedule shall be due 45 days after the end of each month.

6. That the Investigation of Level of Rates and Rate of Return on 1975 Operations instituted by the Commission in this docket be terminated and the docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This 10th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 102C

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company ) ORDER
of North Carolina, Inc., for an ) ADJUSTING
Adjustment of its Rates and Charges ) RATE

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on July 20, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding, and Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602

For the Intervenor:

Jerry B. Fruitt, Associate Attorney General, North Carolina Attorney General's Office, Justice Building, Post Office Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carclina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 21, 1976, Public Service Company of North Carolina, Inc. (hereinafter referred tc as Public Service or the Company), filed with the Commission schedules showing computation of an adjustment in the Volume Variation Adjustment Factor (VVAF) approved for the Company in Docket No. G-5, Sub 102. Public Service proposed to reduce its VVAF from $.0842 per mcf to $.0770 per mcf effective June 1, 1976. On June 8, 1976, Public Service filed revised schedules increasing the VVAF from $.0842 per mcf to $.2835 per mcf effective June 18, 1976. By letter dated June 14, 1976, the Commission accepted the amended tariffs for filing.

On June 24, 1976, the Attorney General of North Carclina filed a Notice of Intervention and a Motion to Rescind Approval and Set Hearing in the above docket. By Order

issued June 25, 1976, the Commission recognized the Attorney General's Intervention.

Upon reconsideration of the application filed by Public Service, the letter of approval, the Motion of the Attorney General, and the entire record in this docket, the Commission concluded that its approval of the amended tariffs filed by Public Service on June 8, 1976, should be rescinded. By Order issued June 29, 1976, the Commission set the matter for hearing on July 20, 1976, and required notice to the public. The Commission ordered that any amounts theretofore collected under the proposed VVAF should be refunded unless the Company filed an Undertaking to refund such amounts as may later be found unjust and unreasonable. On July 2, 1976, Public Service filed and the Commission approved such Undertaking.

The matter came on for hearing as scheduled, and the Attorney General moved that the Commission declare the scope of the hearing. The presiding Commissioner, Mr. Purrington, ruled that this is a case confined to the reasonableness of a specific single rate, namely, the volumetric variation adjustment formula, and involves questions which do not require a determination of the entire rate structure and overall rate of return. Commissioner Purrington further ruled that the proceeding was conducted pursuant to the Commission's rate-making authority conferred by G. S. 62-30, 31, 32, and 130.

The Attorney General also moved (1) that the amended application filed by Public Service be dismissed for failure to comply with the Commission's Order of April 8, 1976, in Docket No. G-5, Sub 112, requiring future curtailment tracking adjustment filings to be based on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period and (2) that the tariff be rescinded and the application dismissed on the grounds that the VVAF is an illegal rate-making device. The motions were denied.

The Attorney General presented the testimony of Vernon Isenhour, President of Sanford Brick Corporation, a customer of Public Service. Mr. Isenhour stated that the proposed volumetric variation adjustment factor increased his company's manufacturing cost by over $500 per day during the month of June and that it would take the company approximately 5 months to pass the cost along in increased prices.

C. M. Dickey, Vice President - Gas Supply Services, Public Service Company, testified concerning the development of the VVAF. Mr. Dickey stated that the purpose of the VVAF when it was approved in February 1975 was strictly to track curtailment and compensation effects from unknown gas supplies. At that time Public Service was experiencing approximately 27% curtailment, while annual curtailment for the Company is currently running at 55%. Assuming

continuation of the present curtailment plan and Transco's current supply estimates, Public Service expects curtailment of approximately 64% for the 12 months ending October 31, 1977.

Mr. Dickey further testified that Public Service's first filed VVAF was $.1338 per mcf based on supply estimates of 28 billion mcf from Transco. During the period that rate was in effect Transco improved its flowing gas supplies and Public Service collected additional dollars. Effective October 6, 1975, the Company reduced its VVAF to $.0842 per mcf which included an adjustment for the overcollections and a supply estimate of 29.3 million mcf from Transco. On May 20, 1976, Public Service reduced its VVAF to $.0770 per mcf with an annual supply of 29,034,796 mcf calculated by using a supply estimate based on 5-1/2 months actual and 6-1/2 months estimated figures. On June 8, 1976, Public Service revised its VVAF to a supply level of 21.7 million mcf based on annualization of summer period entitlements. This revision is consistent with the original purpose of the VVAF Mr. Dickey stated, since it matches timing of revenues received with curtailment experienced. Finally, Mr. Dickey testified that in its next VVAF filing Public Service would annualize winter entitlements (which historically have been greater than summer entitlements), thus increasing supplies available and decreasing the VVAF.

E. L. Flanagan, Jr., Vice President and Treasurer of Public Service Company, identified and offered as an exhibit the schedules filed by the Company in this docket. On cross-examination by the Attorney General, Mr. Flanagan stated that the VVAF calculation includes a reduction of $.1548 per mcf to refund overcollections dating from February 20, 1975, and an increase of $.0608 per mcf to recover undercollections between April 16 and May 31, 1976, as a result of the filing time lag. Thus, Mr. Flanagan conceded, if a customer on February 20, 1975, ceases to be a customer on April 1, he will never receive the $.1548 per mcf refund for overcollections while a new customer at June 1, 1976, will pay $.0608 per mcf for undercollections during the time when he was not a customer.

Mr. Flanagan further testified that for the 12 months ended March 31, 1976, Public Service's rate of return on end of period net investment was 9.13% and on book common equity was 14.12%.

Donald E. Daniel, Coordinator of the Gas and Water Section of the Commission's Accounting Division, testified that the Accounting Staff received and analyzed the exhibits submitted by the Company, including the calculation of each component of the VVAF. Mr. Daniel stated it is his belief that the filing is in conformity with the Commission's Orders and rulings on the Company's VVAF.

On cross-examination by the Attorney General Mr. Daniel stated that for the 12 months ended May 31, 1976, Public Service's return on average common equity was 16.31%.

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Staff, testified that the Engineering Staff analyzed the application and exhibits, cross-checking volume data and statistics with comparable information contained in Commission records, and computed the VVAF. The Staff verified the calculation of the $.2835 per mcf charge and recommended that it be approved.

Based on the foregoing, the application filed by Public Service, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. That the application in this docket is properly before the Commission pursuant to the Commission's Orders in Docket No. G-5, Subs 102, 102A, and 102B wherein the Commission approved a Volume Variation Adjustment Factor (VVAF) to allow Public Service to track the revenue effects of increased or decreased curtailment.

3. That by this application Public Service is seeking to increase its VVAF from $.0842 per mcf to $.2835 per mcf on all rate schedules effective June 18, 1976.

4. That the $.2835 rate per mcf consists of the following:

(a) $.3775 per mcf for the current tracking increment,

(b) $.1548 per mcf reduction to refund overcollections calculated from February 20, 1975, and

(c) $.0608 per mcf to cover undercollection occurring between April 16 and May 31, 1976, as a result of the filing time lag.

5. That the $.2835 per mcf VVAF rate is based upon sales volumes estimated using the Transco summer entitlement period.

6. That Paragraph 5 of the Commission's Order of April 8, 1976, in Docket No. G-5, Sub 112, requires Public Service to base future VVAF filings on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period.

7. That the procedures set forth in Appendix A attached hereto for calculating the VVAF in this proceeding are just and reasonable.

Whereupon, the Commission reaches the following

CONCLUSIONS

In its Order Establishing Rates for Public Service, issued February 13, 1975, in Docket No. G-5, Sub 102, the Commission recognized that, because of the uncertainty in future availability of gas supplies, it was impossible to accurately forecast future revenues and expenses for the Company. The Commission therefore concluded that Public Service's proposed Volume Variation Adjustment Formula was desirable as a means of allowing the Company to maintain a base period margin (the difference between its revenues and the cost of purchased gas plus gross receipts taxes) thereby avoiding the necessity of a general rate case each time the level of curtailment changes.

Since the VVAF is a rate set for the future, it is necessarily based on projected volumes of gas. The VVAF approved for Public Service provides that the Company shall file rate schedules and revisions every six months reflecting the actual effect of changes in curtailment on the margin. The VVAF is then adjusted or "trued up" to reconcile actual experience with projected experience at the time of the last filing. In the future, as curtailment decreases and natural gas supplies to North Carolina improve, the VVAF will be reduced.

The Commission is of the opinion that the precision with which the VVAF tracks increases or decreases in curtailment depends upon the accuracy of the estimated volumes of gas for sale in the future. Accordingly, the Commission concludes that the use of both historical and future Transco entitlement periods provides the best estimate of volumes at the time of filing and should serve as the basis for the VVAF calculation in the instant case. The Commission also concludes that the amounts heretofore collected by Public Service under the $.2835 per mcf VVAF rate, to the extent they exceed such amounts as would have been collected by Public Service had the VVAF been calculated in accordance with Appendix A to this Order, are unjust and unreasonable and should be refunded pursuant to Public Service's Undertaking filed with the Commission. Further, the Commission concludes that, since many of the customers who paid the overcollections dating from February 20, 1975, may not have gas service this winter due to the increase in curtailment, they will not receive their fair share of the refund. The Commission therefore concludes that these amounts should be refunded during the summer period.

FURTHER CONCLUSION

The Commission takes judicial notice of the fact that the rate in question in this proceeding has never been calculated to the complete satisfaction of the Company, the Attorney General or the Commission Staff. The record in Docket No. G-5, Subs 102A, 102B, and Sub 102C, reveals certain inequities both to Public Service and to its customers. Contrary to the Commission's original intent in establishing the VVAF, this rate has never been subjected to an absolute "true up." The Commission is of the opinion that this should now be done. Accordingly, the Commission concludes that the adjustments to the VVAF approved herein are just and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application of Public Service Company of North Carolina, Inc., to increase its volume variation adjustment factor by $.2835 per mcf effective June 18, 1976, be, and hereby is, denied.

2. That Public Service shall file revised tariffs, in accordance with Appendix A attached hereto, to be effective as of the original filing date, and shall implement the refund provisions thereof within 60 days of the date of this Order.

3. That Public Service shall file within 60 days after the implementation of the provisions set forth in Paragraph 2 above a report accounting for the distribution of refunds and overcollections.

4. That to the extent not modified by the provisions of Appendix A herein, the approved method of calculating Public Service's VVAF shall remain unchanged.

5. That Public Service shall give the Commission 30 days' notice of all future changes in the VVAF.

6. That Public Service shall give appropriate notice to its customers of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
Docket No. G-5, Sub 102C

The following steps and procedures shall be used in implementing the Commission Order in this docket.

1. Historical volumes for the 5-1/2 months' period, November 1, 1975, through April 15, 1976, plus estimated future volumes for the 6-1/2 months' period April 16, 1976, through October 31, 1976, shall be used for purposes of calculating the VVAF rate to be effective June 18, 1976. Estimated volumes shall include the 800,000 mcf transferred from the winter to summer entitlement period and any emergency purchases.

2. A "true" VVAF rate shall be calculated for the period February 20, 1975, through February 19, 1976, based on actual curtailment for the period. An adjustment for the period shall then be calculated by determining the difference between the actual revenues from VVAF rates in effect and the pro forma revenues at the "true" VVAF rate based on actual billed volumes.

3. A "true" VVAF rate shall be calculated for the period April 16, 1975, through April 15, 1976, based on actual curtailment for the period. An adjustment for the period February 20, 1976, through April 15, 1976, shall then be calculated by determining the difference between the actual revenue from the VVAF rate in effect for that period and the pro forma revenue at the "true" VVAF rate based on actual billed volumes.

4. An adjustment shall be calculated for the period April 16, 1976, through June 18, 1976, due to the time lag in implementing rates. This adjustment shall be the difference between the $.0842 rate in effect and the rate calculated in item 1. above multiplied by the volumes sold during the period April 16, 1976, through June 18, 1976. This adjustment shall be applicable to bills rendered on and after June 18, 1976.

5. The difference between the $.2835 rate subject to undertaking and the rate determined in 1. above multiplied by the volumes on which the $.2835 has been billed shall be flowed back to the customers who paid the $.2835 by credits to their bills or by refund check.

6. The adjustment determined in 2. and 3. above shall be allocated by priorities based on the volumes sold for the 12-month period ended April 15, 1976. Based on this allocation, the overcollection shall be refunded as follows:

   (a) In priorities A-Q, each customer shall receive a credit to his bill or a refund check.

   (b) A rate shall be calculated to flow back the remaining balance of the overcollection to the

R priority over a 12-month period effective June 18, 1976.

DOCKET NO. G-5, SUB 102
DOCKET NO. G-5, SUB 112
DOCKET NO. G-5, SUB 113
DOCKET NO. G-5, SUB 114

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Public Service Company of North Carolina, Inc. - Investigation of Level of Rates and Rate of Return on 1975 Operations | ORDER ISSUING STAFF REPORT AND CONCLUDING INVESTIGATION |

BY THE COMMISSION: On August 15, 1975, this Commission initiated this docket by issuing its Order for Investigation and Report of Current Level of Earnings. In that Order we observed that financial reports of Public Service Corporation of North Carolina, Inc. (herein called Public Service) published for the 12-month period ending June 30, 1975, showed substantial increases in earnings over the comparative 12-month period ending June 30, 1974, and we ordered an investigation to determine if the present rates of Public Service are just and reasonable under the provisions of the North Carolina Public Utilities Act and the Order of this Commission fixing a fair rate of return on the fair value of the property of Public Service used and useful in service to the public. We ordered Public Service to file with the Commission a complete report of its financial operations for the 12 months ending June 30, 1975, including comparisons of said financial operations with the respective 12-month periods ending June 30, 1971, through June 30, 1974, respectively, and including all information, data, schedules and formats required by NCUC Form G-1 "Rate Case Information Report - Gas Companies" as adopted in Docket No. M-100, Sub 58, and to the extent otherwise applicable and not included in NCUC Form G-1, to file the exhibits prescribed in NCUC Rule R1-17(b), including a schedule showing a comparison of said financial data with the comparable findings of the Commission in said Docket No. G-5, Sub 102, for revenues, expenses and income for the test period ending April 30, 1974. We further ordered the Commission Staff to investigate and review all of the operations, rates, revenues, expenses and rate of return of Public Service for the 12 months ending June 30, 1975, and to file a report of its findings in this docket with the Commission, including a statement of the current rate of return of Public Service.

On August 28, 1975, Notice of Intervention in this case was filed by the Attorney General on behalf of the using and consuming public of the State of North Carolina. The Commission, by Order issued on September 4, 1975, recognized the intervention of the Attorney General.

On September 15, 1975, Public Service filed with the Commission the report of financial operations and exhibits required by this Commission's Order of August 15, 1975.

On September 22, 1975, Public Service filed with this Commission a Petition in Docket No. G-5, Sub 113, for authority to adjust and increase its rates and charges effective October 1, 1975, to track an increase to it from its suppliers. On September 30, 1975, this Commission suspended the schedule of rates proposed to become effective on October 1, 1975, pending completion of the Commission's investigation in this docket. Also on September 30, 1975, Public Service filed with this Commission a Motion to permit the rates proposed in Docket No. G-5, Sub 113, to become effective pursuant to an undertaking requiring Public Service to refund any amounts of the requested increase, if any, found unjust and unreasonable by this Commission. Public Service's Motion was allowed by Order of this Commission dated October 3, 1975.

On October 15, 1975, Public Service filed with this Commission a Petition in Docket No. G-5, Sub 114, for authority to adjust and increase its rates and charges effective November 1, 1975, to track additional increases to it from its suppliers. Also on October 15, 1975, Public Service filed with this Commission undertaking to refund any amounts of the requested increase in Docket No. G-5, Sub 114, if any, found unjust and unreasonable by this Commission. On October 31, 1975, this Commission issued its Order approving Public Service's undertaking, ordering Public Service to file revised rate schedules to reflect the fact that in RP73-3 the Federal Power Commission rejected the advance payment portion of Transco's tracking filing which was to become effective November 1, 1975, and permitting the revised rate schedules to become effective November 1, 1975, pursuant to this undertaking.

On December 15, 1975, the Commission Staff completed its investigation and filed its report, attached hereto as Exhibit A*, as requested by this Commission's Order of August 15, 1975. This report shows that the rates of return actually achieved by Public Service for the 12 months ending June 30, 1975, were as follows:

| | Achieved in Docket No. G-5, Sub 112 June 30, 1975 | Approved in Docket No. G-5, Sub 102 April 30, 1974 |
|---|---|---|
| Original Cost Net Investment | 9.73% | 9.33% |
| Common Equity | 20.27% | 16.50% |

Factors which caused the achieved rates of return to exceed those approved in Docket No. G-5, Sub 102, were (1) additional revenues from rate schedules 16 and 17 (temperature sensitive firm service and process gas,

respectively), (2) sales to North Carolina Natural Gas Corporation, (3) a surcharge of 2.67¢ per MCF effective April 1, 1975, to recover the balance of unrecovered demand charges on curtailed volumes, (4) overcollections through rates recovered under bond in Docket No. G-5, Sub 102, (5) emergency sales at levels lower than contemplated in Docket No. G-5, Sub 102, and (6) use of hypothetical capital structure in Docket No. G-5, Sub 102. The exclusion of items (1) and (2) from the curtailment tracking adjustment formula, along with cost-of-gas pass-ons, protected the company from the major causes of erosion in earnings while allowing it to benefit from favorable differences between pro forma conditions used in Docket No. G-5, Sub 102, and conditions actually experienced.

The Staff also presented on an end of period basis the company's original cost net investment, net operating income for return, and rate of return. The following is a summary of the pertinent information:

| | Approved Docket No. G-5, Sub 102 | Staff | Company |
|---|---|---|---|
| Original cost net investment | $75,020,032 | $77,540,065 | $77,099,696 |
| Common equity | 18,770,012 | 21,711,218 | 23,739,905 |
| Net operating income for returns | 6,997,552 | 7,078,259 | 6,755,719 |
| Rate of return on original cost net investment | 9.33% | 9.13% | 8.76% |
| Rate of return on common equity | 16.50% | 16.38% | 13.34% |

The difference between Staff and Company original cost net investment results from differences in calculating working capital. Staff used the average Federal and state income tax accruals and the Company used the average accruals of all taxes in deducting average tax accruals from the working capital requirement.

The difference between Staff and Company common equity is due to the fact that the Staff allocated a portion of common equity to nonutility operations and construction work in progress while the Company used total common equity.

The major differences between the Staff and Company adjustments to net operating income are due to the adjustments to cost of gas for demand charges on curtailed volumes, the tax effect of interest allocated to plant in service, a Staff adjustment for uncollectible revenues and the allocation of income taxes to other income.

CONCLUSION

1. While, the rate of return on common equity actually achieved by Public Service for the 12 months ending June 30, 1975, exceeds that which was approved by the Commission for the company in its last general rate case, the rate of return on end-of-period common equity as computed by the Staff does not exceed that approved for Public Service in its last general rate case. We therefore conclude that the investigation instituted by the Commission in Docket No. G-5, Sub 112, should be terminated and that the order suspending the tracking increase filed by Public Service in Docket No. G-5, Sub 113, should be vacated and the tracking should be approved as filed. We further conclude that the tracking increase applied for in Docket No. G-5, Sub 114, should be approved as filed.

2. The curtailment tracking adjustment formula as currently in effect for Public Service offers the possibility of excessive earnings in the future due to the fact that it does not make provision for the sale of gas by Public Service under its emergency rate schedules, or for the special sales of gas to other distributors at rates in excess of the rates at which such gas would otherwise be sold. We therefore conclude that the curtailment tracking adjustment formula should be amended for all curtailment tracking adjustment filings for periods subsequent to November 16, 1975, to make provision for any margin earned from such sales (over and above the margin from the sale of such gas included in the fixing of just and reasonable rates in Docket No. G-5, Sub 102, and less any special expenses incurred in the making of such sales).

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the curtailment tracking adjustment formula approved for Public Service in Docket No. G-5, Sub 102, be amended effective for all periods subsequent to November 16, 1975, to make provision for any margin earned by Public Service on actual sales of gas over and above the margin from the sale of such gas included in the fixing of just and reasonable rates in Docket No. G-5, Sub 102.

2. That Public Service shall file each month a schedule showing the sales made during the previous month in accordance with Public Service's curtailment priorities established under Commission Rule R6-19.2 for total company and North Carolina. This schedule shall be due 45 days after the end of each month.

3. That Public Service filed revised rate schedules to be effective with the first billing cycle after January 15, 1976, to make provisions for the rate changes ordered herein.

4. That the Order issued in Docket No. G-5, Sub 113, suspending the increases applied for therein (now being

collected pursuant to Public Service's undertaking) to track increases to Public Service from its pipeline suppliers to the extent that such increases have been approved by the regulatory authorities having jurisdiction over such suppliers be vacated and the tracking be approved as filed.

5. That the tracking increase applied for by Public Service in Docket No. G-5, Sub 114, be approved as filed.

6. That the investigation into current level of earnings instituted in Docket No. G-5, Sub 112, be terminated.

ISSUED BY ORDER OF THE COMMISSION.

This 2nd day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

*See official Order in the Office of the Chief Clerk.

DOCKET NO. G-5, SUB 102
DOCKET NO. G-5, SUB 112
DOCKET NO. G-5, SUB 113
DOCKET NO. G-5, SUB 114

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Public Service Company of North Carolina, Inc. - Investigation of Level of Rates and Rate of Return on 1975 Operation | ) | FINAL ORDER ON EXCEPTIONS |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 17, 1976

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney, Tenney I. Deane, Jr., George T. Clark, Jr., J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, P. O. Box 1406, Raleigh, North Carolina 27602

For the Intervenor:

Jesse C. Brake, Jerry B. Fruitt, Associate Attorneys General, North Carolina Attorney

General's Office, Justice Building, P. O. Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 15, 1975, this Commission instituted in Docket No. G-5, Sub 112, an investigation of the current level of earnings of Public Service Company of North Carolina, Inc. (hereinafter referred to as "the Company" or "Public Service"). Among other things the Commission ordered Public Service to file with the Commission a complete report of its financial operations for the twelve months ending June 30, 1975, and directed that the Company also supply all the information, data, schedules, and formats required by North Carolina Utilities Commission Form G-1 "Rate Case Information Report - Gas Companies" as adopted in Docket No. M-100, Sub 58, and also to file all the exhibits required by N. C. U. C. Rule R1-17(b) including financial data comparable with the findings of the Commission in Docket No. G-5, Sub 102, which was the last general rate case of Public Service and which covered the test year ended April 30, 1974. All the required information was filed by the Company.

Thereafter, on September 4, 1975, pursuant to notice of intervention filed on behalf of the using and consuming public of the State of North Carolina, the Commission recognized the intervention of the Attorney General.

On September 22, 1975, Public Service filed with the Commission in Docket No. G-5, Sub 113, a Petition seeking authority to adjust its rates and charges effective October 1, 1975, to track an increase in rates to it from its supplier of natural gas, Transcontinental Gas Pipe Line Corporation (Transco). This rate increase was suspended pending completion of the investigation by the Commission in Docket No. G-5, Sub 112. Thereafter, on October 15, 1975, Public Service filed with the Commission in Docket No. G-5, Sub 114, a Petition seeking authority to further adjust and increase its rates and charges effective November 1, 1975, to track an additional increase from its supplier, Transco. This increase was permitted to become effective under an undertaking pending final determination of the investigation.

Subsequently, on January 2, 1976, the Commission issued its Order terminating the investigation in Docket No. G-5, Sub 112, and approving the tracking increases proposed by Public Service in Docket No. G-5, Sub 113, and Docket No. G-5, Sub 114, as filed. This Order also modified the volume variation adjustment factor which had been previously

approved for application by Public Service by the Order in the general rate case in Docket No. G-5, Sub 102.

On February 2, 1976, the Attorney General of North Carolina filed exceptions and gave notice of appeal from the Order of the Commission dated January 2, 1976. On February 18, 1976, Public Service filed a Motion for further hearing and for hearing on the exceptions of the Attorney General filed February 2, 1976. On February 23, 1976, the Commission allowed the Motion of Public Service and set the exceptions for further hearing on oral argument and affidavits.

The matter came on for hearing as scheduled. Public Service submitted the affidavit of C. Marshall Dickey, Vice President, Gas Supply Services of Public Service Company, which tended to show that he had testified before the Commission in Docket No. G-5, Sub 102, with regard to the application of Public Service for general rate relief including a volume variation adjustment factor (sometimes called "VVAF") to account for the uncertain curtailment level. Mr. Dickey stated that the VVAF was not intended to track all the variables in sales mix such as loss or replacement customers, conservation, weather variation, market requirements of industrial consumers and minimums and maximums imposed on the taking of gas from Transco, sales under new rate schedules, and sales on an emergency basis to aid other natural gas companies. He further noted that the VVAF was not intended to be a method of tracking expenses or guaranteeing the Company a rate of return and that the VVAF has worked well and had been adjusted in accordance with the procedure adopted by the Commission in its Order when supplies proved to be greater than previously anticipated.

Mr. E. L. Flanagan, Jr., presented an affidavit stating that he was Vice President and Treasurer of Public Service and that he had made computations based on the records of the Company for the twelve months' period ended June 30, 1975, and for the twelve months' period ended December 31, 1975, to show the effect of revenues derived from the volume variation adjustment factor and from the tracking increases approved in Docket No. G-5, Sub 113, and Docket No. G-5, Sub 114. Mr. Flanagan testified that for the twelve months ended June 30, 1975, the Company earned the following rates of return:

End of Period Net Investment

| | |
|---|---|
| Unadjusted per books | 9.83% |
| After accounting and pro forma adjustments | 9.18% |
| After elimination of VVAF revenues | 7.01% |
| After elimination of tracking increases in Subs 113 and 114 | 5.15% |

Common Equity

| | |
|---|---|
| Unadjusted per books | 15.98% |
| After accounting and pro forma adjustments | 14.68% |
| After elimination of VVAF revenues | 7.73% |
| After elimination of tracking increases | 1.72% |

For the twelve months ended December 31, 1975, Mr. Flanagan showed the following rates of return:

End of Period Net Investment

| | |
|---|---|
| Unadjusted per books | 9.21% |
| After accounting and pro forma adjustments | 8.27% |
| After elimination of VVAF revenues | 6.88% |
| After elimination of tracking increases | 4.40% |

On Equity

| | |
|---|---|
| Per Books | 15.50% |
| After accounting and pro forma adjustments | 10.96% |
| After elimination of VVAF revenues | 6.33% |
| After elimination of tracking increases | (-) |

Mr. Flanagan noted that the rates of return allowed Public Service in its last general rate case were 9.33% on end of period net investment and 16.50% on common equity.

The Commission Staff Report on Investigation of Operations, included as Exhibit A attached to the Order dated January 2, 1976, was offered by the Staff and received into evidence.

The Attorney General introduced no evidence and presented no affidavits.

Upon further consideration of the record herein, supplemented by oral argument and affidavits, the Commission makes the following

FINDINGS OF FACT

Cost of Gas Tracking Increases

1. Public Service Company of North Carolina, Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. North Carolina General Statute 62-133(f) 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 the 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 changes 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."

3. Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued an Order in Docket No. G-100, Sub 14, requiring certain data to be filed when the utility seeks solely to recover increases in the wholesale cost of purchased gas to it in this state, if such increase by its suppliers is approved by the Federal Power Commission. Pursuant to that Order, Public Service filed the following data in this proceeding:

(i) Schedule of Public Service's rates and charges presently in effect.

(ii) Schedule of Public Service's proposed rates and charges filed to become effective October 1, 1975 (Docket No. G-5, Sub 113), and November 1, 1975 (Docket No. G-5, Sub 114).

(iii) Statement of original cost of all the property of Public Service used and useful in the public service at June 30, 1975.

(iv) Statement of fair value of all the property of Public Service used and useful in the public service at June 30, 1975.

(v) Statement of accrued depreciation at June 30, 1975.

(vi) Statement of materials and supplies at June 30, 1975.

(vii) Statement of cash working capital at June 30, 1975.

(viii) Statement of gross revenues received, operating expenses, and net operating income for a return on investment for the twelve months ended June 30, 1975.

(ix) Statement showing effect of proposed increase in rates and rates of return. Statement showing rate of return on stockholders' equity.

(x) Balance sheet at June 30, 1975, and income statement for the twelve months ended June 30, 1975.

(xi) Statement of computations of rate increases per Mcf needed to recover the increases in cost of gas to Public Service from Transco.

(xii) Copy of Transco's tariff filed with the Federal Power Commission.

(xiii) Copy of Notice to Public.

Public Service also filed information listed in Items (iii) through (ix) above for the twelve months ended December 31, 1975.

4. Effective October 1, 1975, and again on November 1, 1975, Public Service's supplier Transco increased its wholesale rates of natural gas to Public Service. The October 1, 1975, increase results from Transco's filings in FPC Docket Nos. RP 75-75, RP 74-48, and RP 75-3. The November 1, 1975, increase results from Transco's filings in FPC Docket Nos. RP 74-3, RP 74-48, and RP 75-3.

5. Public Service is seeking in Docket No. G-5, Sub 113, to increase its rate schedules by $.0842 per Mcf effective October 1, 1975, and in Docket No. G-5, Sub 114, to increase its rate schedules by $.0787 per Mcf effective November 1, 1975. The rate increases sought by Public Service are occasioned solely by changes in the wholesale rate of gas to Public Service by its supplier Transco.

6. Public Service has given due and proper notice of the proposed increases in its rates to interested parties as required by statute and by this Commission's Rules.

7. In this Commission's Order in Docket No. G-5, Sub 102, Public Service's most recent general rate case, the Commission approved a rate of return on the original cost of Public Service's property used and useful in public service in North Carolina of 9.33% and a rate of return on end of period common equity of 16.50%.

8. That the increases proposed in Docket Nos. G-5, Sub 113, and G-5, Sub 114, will merely permit Public Service to offset increases occasioned by changes in its wholesale rate of such natural gas and will not result in increasing Public Service's rate of return over the rate of return most recently approved for Public Service in Docket No. G-5, Sub 102.

Investigation of Current Level of Earnings

1. Even with the inclusion in net operating income of certain nonrecurring revenues, the rate of return on end of period common equity as computed by the Staff is not in

excess of the return provided for Public Service in its last general rate case.

2. The curtailment tracking adjustment formula approved for Public Service in Docket No. G-5, Sub 102, was designed to allow the Company to maintain its margin based on gains and losses in revenues depending on the existing level of future curtailment.

3. Future filings under the curtailment tracking adjustment formula should take into account sales of emergency gas in excess of base period volumes and normal prices and should reflect exact curtailment experience.

Wherefore, the Commission reaches the following

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.

The Commission concludes, after hearing, that the filings and applications herein comply with G. S. 62-133(f) as increases occasioned by changes in the wholesale rate of natural gas.

The Commission concludes that the granting of the tracking increases filed for in Docket Nos. G-5, Sub 113 and Sub 114, will not result in increasing Public Service's rate of return over the rate of return allowed in Public Service's last general rate proceeding, Docket No. G-5, Sub 102.

The Commission concludes that the rates filed by Public Service in Docket No. G-5, Sub 113, to be effective October 1, 1975, and the rates filed by Public Service in Docket No. G-5, Sub 114, to be effective November 1, 1975, are just and reasonable.

Based on the foregoing findings of fact, the Commission is of the opinion that the rate increases filed by Public Service seek solely to recover increases occasioned by increases in the cost of gas to Public Service from its supplier and that those increases filed for in Docket No. G-5, Sub 113, should be permitted to become effective on October 1, 1975, and that those increases filed for in Docket No. G-5, Sub 114, should be permitted to become effective November 1, 1975.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the tariffs filed by Public Service Company of North Carolina, Inc., as Exhibit No. 2 in Docket No. G-5, Sub 113, be, and hereby are, authorized to become effective on all gas sold on and after October 1, 1975.

2. That the tariffs filed by Public Service Company of North Carolina, Inc., as Exhibit No. 2 (as revised) in Docket No. G-5, Sub 114, be, and hereby are, authorized to become effective on all gas sold on and after November 1, 1975.

3. That the Undertakings filed by Public Service Company of North Carolina, Inc., in Docket Nos. G-5, Sub 113, and G-5, Sub 114, be, and the same hereby are, cancelled and terminated.

4. That the attached notice, APPENDIX "A," be mailed to all customers along with their next bill advising them of the actions taken herein.

5. That future filings under the curtailment tracking adjustment formula include sales of emergency gas in excess of base period volumes and normal gas prices. The margin to be included is the difference between the emergency gas rate and the rate at which the gas would have been sold under the priority system established by Commission Rule R6-19.2.

6. That future curtailment tracking adjustment filings be revised 45 days after each Transco entitlement period to show exact curtailment experience, the filings to be based on the future 5 or 7 months' Transco entitlement period plus the 5 or 7 months' historical Transco entitlement period.

7. That the curtailment tracking adjustment formula approved for Public Service in Docket No. G-5, Sub 102, except as modified hereinabove, be reaffirmed as filed, and that all future curtailment adjustment tracking filings be filed in accordance with the procedures established herein.

8. That Public Service file each month a schedule showing the sales made during the previous month in accordance with Public Service's curtailment priorities under Commission Rule R6-19.2 for total company and North Carolina. This schedule shall be due 45 days after the end of each month.

9. That, except as modified herein, the Order in this Docket issued January 2, 1976, is affirmed and the exceptions of the Attorney General are overruled.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 113 AND SUB 114
APPENDIX "A"

Upon application of Public Service Company of North Carolina, Inc., to recover only increases in cost of gas to it from its wholesale supplier, Transcontinental Gas Pipe Line Corporation, plus related gross receipts taxes, the North Carolina Utilities Commission approved increased rates on all bills for gas consumed on and after October 1, 1975, by $.0842 per Mcf on all rate schedules and increased rates on all bills for gas consumed after November 1, 1975, by $.0787 on all rate schedules.

DOCKET NO. G-5, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application of Public Service Company of North Carolina, Inc., for a Surcharge to Recover Emergency Purchases | ) ) ) | ORDER APPROVING SURCHARGE |

BY THE COMMISSION: By letter of 4 May 1976 Public Service Company of North Carolina, Inc. requested authorization to continue to apply to non-residential users an across-the-board Mcf surcharge rider to recover increased costs incurred in the purchase of gas supplies from Oklahoma Natural Gas Company. Public Service Company proposes to purchase additional gas supplies from Oklahoma Natural Gas Company in order to meet the full requirements of their high priority industrial and commercial customers during the period April 16, 1976 through October 31, 1976. Public Service Company estimates its requirements and supplies for the April through October period (hereinafter "summer period") to be as shown in the following tables:

1976 Summer

| Market Requirements | | |
|---|---|---|
| Priority K - R.2 (including Company use and unaccounted for) | 11,938,110 | Mcf |
| WSS Top Gas Injection | 637,420 | |
| LNG Liquefaction | 393,600 | |
| GSS Injection | 136,631 | |
| Total Requirement | 13,105,761 | Mcf |

| Supply Available | | |
|---|---|---|
| CD-2 Summer Entitlement | 9,785,000 | Mcf |
| CD-2 Transfer from Winter Entitlement | 800,000 | |
| PS-2 Balance Remaining | 99,135 | |
| HSS Withdrawal | 127,964 | |
| Other Purchases | 2,000,000 | |
| Total Supply | 12,812,099 | Mcf |

As reflected above, Public Service Company estimates that it will need to purchase 2,000,000 Mcf from sources other than Transco in order to serve their high priority customers. Public Service states in its letter that it has been serving the full requirements of their R through K priorities only because of this planned purchase of 2 billion cubic feet this summer from other distributors and pipelines.

Public Service proposes to continue in effect an Emergency Surcharge - Rider B of 1.664¢ per Ccf which was allowed by the Commission by letter dated 30 December 1975 effective 6 January 1976 on all of its gas sales except those residential sales in N.C.U.C. priority R.2, sales to public schools under rate schedule 11, and sales to Public Housing Authorities under rate schedule 12. In December 1975 the Commission authorized Public Service to purchase gas at premium rates from Michigan Consolidated Gas Company to supplement Transco's winter CD-2 deliveries. The Emergency Surcharge approved 30 December 1975 allowed the recovery of the additional costs associated with this purchase, including the appropriate gross receipts tax. Attached to its letter of application in this docket is a letter written by Mr. C. H. Mullendore, Jr., Vice President - Rates and Marketing of Transco on 23 April 1976. Mr. Mullendore advises Public Service that its request to purchase 2 billion cubic feet of emergency volumes can be fulfilled in a 60-day period beginning on May 28, and that the total cost per Mcf delivered to Public Service will be in the range of $1.90 to $1.95. Since this price is similar to the price previously authorized for Public Service by the Commission in its purchase of gas supplies from Michigan Consolidated Gas Company, Public Service requests that it be allowed to continue to apply the same surcharge.

Public Service states its intent to determine the precise cost and amount necessary to recover the cost of these new supplies as soon as possible. On, or about, 1 June 1975 Public Service is expected to file a revised surcharge designed to recover the balance of its remaining purchase price from Oklahoma Natural Gas Company over the summer period less any excess revenues collected under the presently existing emergency surcharge of 1.664¢ per Ccf designed to recover the costs incurred in the purchase of gas supplies from Michigan Consolidated Gas Company.

The Commission is of the opinion that the application of Public Service will not result in an increased rate of return on Public Service's investment, nor will it result in an increased return on equity allowed to Public Service in its last general rate case. The Commission is further of the opinion that Public Service Company should be allowed to continue to apply a surcharge of 1.664¢ per Ccf effective on all gas sales except those residential sales in N.C.U.C. priority R.2, sales to public schools under rate schedule 11, and sales to public housing authorities under rate schedule 12. Public Service should promptly determine the

precise cost and amount necessary to recover the cost of these new supplies as soon as possible, and file on, or about, 1 June 1976 for a revised surcharge designed to recover over the remaining summer period the balance of this cost less any excess revenue collected under the present 1.664¢ per Ccf surcharge. Upon recovering the full cost of this purchase from Oklahoma Natural Gas Co., Public Service shall file, on one day's notice, tariffs which reflect the withdrawal of this surcharge. Public Service shall also file a complete accounting statement showing the amount of revenue received and the increased cost incurred in purchasing this gas from Oklahoma Natural Gas Company within thirty days after Public Service has recovered its cost in this emergency purchase.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Public Service Company of North Carolina be allowed to continue to apply a surcharge of 1.664¢ per Ccf designed to recover the increased cost of gas supplies purchased from Oklahoma Natural Gas Company.

2. That Public Service Company of North Carolina shall purchase no more than 2,000,000 Mcf from Oklahoma Natural Gas Company without approval of the Commission.

3. That Public Service Company of North Carolina shall pay no more than $1.95 per Mcf to Oklahoma Natural Gas Company for the additional gas purchased.

4. That Public Service Company of North Carolina shall recover under this surcharge approved no more than the increased cost of gas purchased from Oklahoma Natural Gas Company, less any excess revenue collected under the presently approved surcharge of 1.664¢ per Ccf.

5. That Public Service Company of North Carolina shall file, on one day's notice, tariffs which reflect the withdrawal of this surcharge upon recovering the increased costs of gas purchased from Oklahoma.

6. That Public Service Company of North Carolina shall file a complete accounting statement showing the amount of revenue received and the increased cost incurred in purchasing this gas from Oklahoma Natural Gas Company within thirty days after Public Service has recovered its cost in this emergency purchase.

ISSUED BY ORDER OF THE COMMISSION.

This 13th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application of Public Service Company of North Carolina, Inc., for a Surcharge to Recover Emergency Purchases | ) ) ) | ORDER APPROVING CONTINUATION OF SURCHARGE |

BY THE COMMISSION: On 13 May 1976 the Commission issued an Order authorizing Public Service Company of North Carolina, Inc., to purchase 2,000,000 Mcf in additional gas supplies from Oklahoma Natural Gas Company in order to meet the requirements of its high priority industrial and commercial customers during the summer period 16 April through 31 October 1976. By this Order, Public Service was allowed to recover the costs incurred in the purchase by continuing an Emergency Surcharge - Rider B of $.1664 per Mcf effective in all gas sales except those to residential users in NCUC Priority R.2, public schools under Rate Schedule 11, and public housing authorities under Rate Schedule 12. The Order directed Public Service to determine the precise cost of these new supplies of gas as soon as possible and to file a revised surcharge designed to recover over the remaining summer period the balance of this cost less any excess revenue collected under the present $.1664 per Mcf surcharge. Public Service was ordered to purchase no more than 2,000,000 Mcf from Oklahoma Natural without further Commission approval.

Pursuant to the above Order, Public Service issued a revised Emergency Surcharge - Rider B of $.229 per Mcf effective 4 June 1976. On 3 June 1976 the Commission accepted the revised surcharge for filing.

By letter of 21 July 1976, Public Service requests authorization to purchase an additional 200,000 Mcf from Oklahoma Natural Gas Company, in order to compensate for compressor fuel and greater customer usage during the summer period and to recover the additional cost of such gas by continuing the present $.229 per Mcf Emergency Surcharge - Rider B until recovery has been accomplished. In its original application in this docket, Public Service estimated that it would need to purchase 2,000,000 Mcf from sources other than Transco in order to serve high priority customers during the summer period. Public Service now alleges that, because of the deduction necessary for compressor fuel utilized in transportation, the company will actually receive for resale 1,985,000 Mcf out of the total 2,200,000 Mcf to be purchased.

The Commission is of the opinion that Public Service should be allowed to purchase an additional 200,000 Mcf from Oklahoma Natural Gas Company and to recover the cost of such gas by the continuation of the $.229 per Mcf nonresidential surcharge. The Commission is further of the opinion that the application of Public Service will not result in an

increased rate of return on Public Service's investment nor will it result in a return on equity above that allowed Public Service in its last general rate case.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Public Service Company of North Carolina, Inc., be, and hereby is, authorized to purchase up to 200,000 Mcf of additional gas from Oklahoma Natural Gas Company.

2. That Public Service be, and hereby is, allowed to continue in effect its Revised Emergency Surcharge - Rider B of $.229 per Mcf to recover the increased cost of gas purchased from Oklahoma Natural Gas Company.

3. That Public Service shall file, on one day's notice, tariffs which reflect the withdrawal of said surcharge upon recovering the increased costs of gas purchased from Oklahoma Natural Gas Company.

4. That Public Service shall file a complete accounting statement showing the amount of revenue received and the increased cost incurred in purchasing said additional gas from Oklahoma Natural Gas Company within thirty days after Public Service has recovered the cost of said purchase.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-329

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Charlotte Visitours, Inc., 7|9 Malras Lane, Charlotte, North Carolina - Application for a License to Engage in the Business of a Broker in Intrastate Operations from Charlotte, North Carolina | ) RECOMMENDED ORDER GRANTING BROKER'S LICENSE |

HEARD IN: The Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on August 26, |976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

James M. Day
Boyce, Mitchell, Burns & Smith
P. O. Box |406
Raleigh, North Carolina 27602
For: Charlotte Visitours, Inc.

No Protestants.

PARTIN, HEARING EXAMINER: On July |6, |976, Charlotte Visitours, Inc., filed an Application for a Broker's License as follows:

"Sightseeing tours to towns and cities in North Carolina from Charlotte, N.C. - including Charlotte, N.C."

On July 28, |976, the Commission issued its Order setting the Application for hearing and provided that any protests should be filed with the Commission at least ten (|0) days prior to the hearing date. No protests or interventions were filed in this docket. The Application came on for hearing as scheduled on August 26, |976. The Applicant was present and represented by counsel. No one was present to protest the Application. The Applicant offered the testimony of Mrs. Mary B. Brock, Secretary of Applicant. The testimony and exhibits tended to show that Charlotte Visitours, Inc., a North Carolina corporation, was organized to arrange and conduct sightseeing tours from Charlotte, North Carolina, to points and places in North Carolina. There is a need in Charlotte for such broker's service as a result of Charlotte's growth as a convention center. The Applicant will use only those common carriers of passengers which are licensed by the Commission. The Applicant is not an agent of any motor carrier. The Applicant has a line of credit with a Charlotte bank.

Upon consideration of the Application, the evidence, and the record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That Applicant is fit, willing and able to properly perform the proposed service and to conform to the statutory provisions and the Rules and Regulations of the Commission promulgated pursuant thereto.

(2) That the Applicant is not a bona fide employee or agent of any motor carriers.

(3) That the proposed service will be consistent with the public interest and the declared policy as set forth in G.S. 62-2 and G.S. 62-259.

(4) That the Applicant proposes to engage only those motor carriers authorized by this Commission to transport passengers as common carriers by motor vehicle in intrastate commerce in North Carolina.

(5) That the proposed service is desired and will be used by the public.

CONCLUSIONS

Based upon the record, the evidence presented, and the foregoing Findings of Fact, the Hearing Examiner concludes that Applicant has borne the burden of proof as required by statute and that the Application for a license to operate as a broker in North Carolina intrastate commerce should be approved.

IT IS, THEREFORE, ORDERED as follows:

(1) That the Application of Charlotte Visitours, Inc., Docket No. B-329, be, and the same is hereby, approved, and that the Applicant be issued a license to engage in the business of a broker within and throughout the State of North Carolina; that such license shall be issued upon the Applicant's compliance with Ordering Paragraph (2) set forth below.

(2) That under the provisions of G.S. 62-263 and Rule R2-66(c) of the Commission, Applicant shall file with the North Carolina Utilities Commission a bond to be approved by the Commission of not less than $5,000 in such form as will insure the financial responsibility of the Applicant as a broker, and will further insure the supplying of authorized transportation in accordance with agreements, contracts and arrangements therefor.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-330

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Hazel S. Kay, d/b/a Hazel Kay Tours, 910 Alice Drive, Thomasville, North Carolina - Application for a License to Engage in the Business of a Broker in Intrastate Operations Between Certain Points in North Carolina | ) | RECOMMENDED ORDER GRANTING APPLICATION |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on October 21, 1976, at 9:30 a.m.

BEFORE: Hearing Examiner Jane S. Atkins

APPEARANCES:

For the Applicant:

John R. Sims, Jr.
Goff, Sims, Cloud and Stroud, P. C.
Attorneys at Law
915 Pennsylvania Building
425 13th Street, N. W.
Washington, D. C. 20004

Michael D. Lea
Attorney at Law
Post Office Box 87
Thomasville, North Carolina

For the Commission Staff:

Robert F. Page
Assistant Commission Attorney
North Carolina Utilities Commission
Post Office Box 991
Raleigh, North Carolina 27602

ATKINS, HEARING EXAMINER: By Application filed with the Commission on July 20, 1976, the Applicant Hazel S. Kay, d/b/a Hazel Kay Tours, 910 Alice Drive, Thomasville, North Carolina, seeks a broker's license pursuant to G. S. 62-263 and N.C.U.C. Rule R2-66 for authority to provide travel arrangements relating to the following:

Passengers and their baggage in round trip, all expense tours, charter and special operations; beginning and ending in Randolph, Montgomery, and Davidson Counties, North Carolina, and extending to points in North Carolina.

By Order issued July 28, 1976, the Commission being of the opinion that such Application was a matter affecting the public interest, assigned the matter for public hearing in the Commission Hearing Room on August 26, 1976, and required that any protest to the Application be filed with the Commission ten days prior to that date. Upon the request of the Applicant, the hearing was postponed from August 26, 1976, until October 21, 1976, in order to allow for the possibility of consolidating the hearing before the North Carolina Utilities Commission with a corresponding hearing to be held before the Interstate Commerce Commission. As a result of no protest being filed with the Interstate Commerce Commission, the interstate application was assigned to be handled by a modified procedure which does not include a hearing. By Order of September 29, 1976, the Commission rescheduled the hearing for October 21, 1976, at 9:30 a.m.

No one petitioned to intervene in the matter nor were any protests to the Application filed.

The matter came on for hearing at 9:30 a.m., October 21, 1976, in the Commission Hearing Room. The Applicant, her witnesses, and her attorneys were present. No one was present in opposition to the granting of the broker's license sought by the Applicant.

The Applicant offered the testimony of herself, Linda Jones, Dorothy Beatty, Joyce Fine, and Cleatus Bulla. Also present and prepared to testify in support of the Applicant's case were the following people: Pauline Parrish, Louise Cashatt, Dorothy Murphy, Mrs. Arthur Clodfelter, Mrs. Clarence Starr, Florence Parker, Neil Varner, Jeff Craddock, J. D. Ridge, Donald Kaye, John Benson, Steve Ruth, Marsha Freeman.

Hazel S. Kay testified that she has been a tour broker for several years; that in June of this year she was informed that she needed a license; that at that time she began to take the necessary steps to obtain a license; that she plans approximately twenty tours a year, five of which will be intrastate; that in the past she has had no complaints from competitors or clients; that she plans to advertise in three counties; that she will escort the tours personally; and that she has assets of $332,000 and liabilities of $85,000.

Linda Jones testified that she took a tour with Hazel Kay Tours to Carowinds; that she was very satisfied with the services provided; and that she would like to take more trips in the future with Mrs. Kay.

Dorothy Beatty testified that she has traveled with Hazel Kay Tours; that she knows of no other broker in Thomasville;

that the tours which she has taken have been filled to capacity; and that she would like to take three or four of the twenty planned trips each year.

Joyce Pine testified that she took a tour to Carowinds with Hazel Kay Tours; that she recommends the tours; and that she would like to take two or three trips a year in the future.

Cleatus Bulla testified that she had taken a tour which was out of state; that in the future she would like to go to Carowinds and the Outer Banks with the tour group; and that she feels like it is more economical to travel on the bus with the tour group than in a car.

The Applicant filed as a late exhibit, a broker's surety bond in the amount of $5,000, in accordance with N.C.U.C. Rule R2-66(c).

Upon consideration of the Application, the evidence presented and the entire record in this proceeding, the Commission makes the following

## FINDINGS OF FACT

(1) That the Applicant is fit, willing and able to properly perform the proposed service and to conform to the statutory provisions and the rules and regulations of the law promulgated pursuant thereto.

(2) That the Applicant is not a bona fide employee or agent of any motor carrier.

(3) That the proposed service will be consistent with the public interest and the declared policy as set forth in G.S. 62-2 and G. S. 62-259.

(4) That the Applicant proposes to engage only those motor carriers authorized by the Commission to transport passengers as common carriers by motor vehicle in intrastate commerce in North Carolina.

(5) That the proposed service is desired and will be used by the public.

(6) That the Applicant has filed with the Commission a valid and sufficient bond of the type required by G. S. 62-263(e) and N.C.U.C. Rule R2-66(c).

## CONCLUSIONS

Based upon the record, the evidence presented and the foregoing Findings of Fact, it is concluded that the Applicant complies with the requirements for obtaining a broker's license provided in North Carolina General Statutes and the rules and regulations of the Commission and that the Application for a license to operate as a broker in North

Carolina intrastate commerce should be approved and that a broker's license as shown in Appendix A should be issued to the Applicant.

IT IS, THEREFORE, ORDERED that the Application in Docket No. B-330 be granted and that the Applicant, Hazel S. Kay, d/b/a Hazel Kay Tours, 910 Alice Drive, Thomasville, North Carolina, be issued a certificate granting authority to engage in the business of a broker by making arrangements for all passengers and their baggage in round trip, all expense tours, charter and special operations; beginning and ending in Randolph, Montgomery and Davidson Counties, North Carolina, and extending to points in North Carolina; that the bond filed as a late exhibit is accepted as valid and sufficient under the provisions of G. S. 62-263 and Commission Rule R2-66(c).

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of November, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

Appendix A

DOCKET NO. B-330

Hazel S. Kay
d/b/a Hazel Tours
910 Alice Drive
Thomasville, N. C.

EXHIBIT A

To engage in the business as a Broker in intrastate operations within the following territory:

Beginning and ending in points in Randolph, Montgomery and Davidson Counties, North Carolina, and extending to all points in North Carolina.

DOCKET NO. B-325

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>American Coach Lines, Inc., 468 Fairmont Drive, Norcross, Georgia 30071 - Application for Authority to Engage in the Transportation of Passengers Between the Georgia-North Carolina State Line and Asheville, North Carolina | ) | ORDER GRANTING APPLICATION |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina 27602, on January 16, 1976, at 10:00 a.m.

BEFORE: Commissioners J. Ward Purrington, Presiding, Tenney I. Deane, Jr., and Ben E. Roney

APPEARANCES:

For the Applicant:

Robert F. Bode
Bode & Bode
Attorneys at Law
Insurance Building
Raleigh, North Carolina 27602
For: American Coach Lines

For the Intervenors:

R. C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina 27602
For: Continental Southeastern Lines, Inc.

For the Commission Staff:

Paul L. Lassiter
Associate Commission Attorney
North Carolina Utilities Commission
P. O. Box 991
Raleigh, North Carolina 27602

BY THE COMMISSION: This matter came on for hearing before the Commission, based upon the application filed on November 24, 1975, by American Coach Lines, Inc. (Applicant), 486 Fairmont Drive, Norcross, Georgia, for authority to operate as a common carrier of passengers, their baggage, mail and light express, over the following route:

"From the Georgia-North Carolina State Line over U. S. Highways 23 and 441, to Dillsboro; thence over U.S. Highways 23 and 19A to Asheville and return, serving all intermediate points."

By Order issued on December 22, 1975, the Commission set the application for public hearing in the Commission's Hearing Room, Ruffin Building, Raleigh, North Carolina, on January 16, 1976, and required that Applicant publish notice of its application in newspapers having general circulation in the area involved. The Applicant published the required notice of its application in the Asheville Citizen and Citizen-Times.

On January 2, 1976, Continental Southeastern Lines, Inc. (Intervenor), P. O. Box 2387, Charlotte, North Carolina, through its attorney, R. C. Howison, Jr., filed a petition for leave to intervene as its interest might appear at the hearing. The Commission by Order dated January 6, 1976, allowed the intervention.

This matter came on for hearing at the time, date and place first above noted. At the call of the hearing, both the Applicant and the Intervenor were present and represented by counsel. Also present were public witnesses Mr. Woodrow Reeves and Mr. Charles Quisenberry to testify in support of the Applicant.

At the beginning of the hearing, the attorney for the Intervenor stated that the Intervenor now operates a passenger carrier service over a portion of the route that the Applicant proposes to serve, but that the Intervenor did not oppose the application nor the granting of a certificate to the Applicant. The attorney for the Intervenor further stated that the Intervenor was planning to apply for authority to abandon servicing the Franklin to Dillsboro route regardless of the outcome of the pending application by American Coach Lines, Inc.

## SUMMARY OF EVIDENCE

The Applicant's first witness was Mr. Bundy Brewster, General Manager of American Coach Lines, Inc. He offered testimony concerning the public need for Applicant's proposed service as well as the Applicant's qualifications, business experience, and financial ability to perform the proposed transportation services.

Mr. Brewster testified that American Coach Lines, Inc. was formed in the fall of 1975 with Calvin Cooper as its President and sole shareholder. The primary purpose for the formation of American Coach Lines was to fill the anticipated need for service resulting from Continental Trailways' petition to the Interstate Commerce Commission to abandon its Atlanta-Clayton-Asheville bus runs. Applicant is now running buses between Asheville and Atlanta on a daily basis pursuant to authority granted by the Interstate Commerce Commission. Mr. Brewster further testified that Applicant has received a number of requests for service along the proposed route.

Mr. Brewster offered evidence tending to show that the Applicant now employs nine (9) permanent and two (2) part-time employees with four (4) employees being licensed and qualified to drive the buses. Mr. Brewster further testified that Mr. Calvin Cooper, President of Applicant, has had five (5) or more years experience in bus maintenance and operations and that other of the Applicant's employees have had previous experience with Trailways and/or Greyhound.

Mr. Brewster further testified that the Applicant now owns three (3) 410 C GMC buses, each having a 38 passenger capacity. He further testified that the Applicant has total assets of $65,000 and that Applicant has a ready source of credit if more money is later needed. Mr. Brewster stated that Applicant is now using the same bus stations which Trailways uses or used on the Georgia portion of the route and that Applicant has acquired the right to use the same bus stations as Trailways now uses on the portions of the route which are located in North Carolina. He finally testified that the Applicant was prepared to advertise its services if granted authority and to meet any and all safety and operating requirements of this Commission.

Mr. Woodrow W. Reeves, Mayor of Franklin, North Carolina, testified in support of the application. He testified that Franklin, which lies directly on the route proposed to be served by the Applicant, is in an isolated area and that it is essential that the city have bus service from Franklin to Atlanta, and that the town will have no passenger or freight bus service to Asheville if Continental Trailways abandons its present services as anticipated. Mr. Reeves presented signed statements from freight receivers in Franklin, a letter from the editor of the Franklin Press, and a letter from the County Manager of Macon County all in support of the application.

Mr. Charles Quisenberry, who works for the United States Forestry Service in Franklin and is also associated with the U.S. Job Corps station in Franklin, testified on behalf of the Applicant. Mr. Quisenberry stated that the Job Corps would be a large user of the proposed bus service with between twenty (20) and twenty-five (25) job corpsmen per week using the service. He stated that without the bus service, it would be difficult, if not impossible, to pick up job corpsmen. He also testified that most job corpsmen in North Carolina, South Carolina, Florida and Georgia must come through either Asheville or Atlanta to get to Franklin. He also stated that the proposed service was also necessary to aid the Job Corp centers in Cherokee and Brevard.

The Intervenor did not offer any witnesses and no one else appeared to protest the granting of the application. At the close of the evidence, the attorney for the Intervenor stated that the Intervenor did not oppose the granting of the application and further that the Intervenor did not request that the application be limited on a closed door basis.

Based on the foregoing, the verified application and the other matters and things appearing in the Commission's official records herein, the Commission now makes the following

FINDINGS OF FACT

1. That the Applicant is a corporation organized and operating under the laws of the State of Georgia.

2. That the Applicant has filed application with this Commission for common carrier authority to transport passengers, their baggage, mail and light express over the following routes:

"From the Georgia-North Carolina State Line over U.S. Highways 23 and 441 to Dillsboro, thence over U.S. Highway 23 and 19A to Asheville, and return, serving all intermediate points."

3. That the Applicant now owns three (3) 41OC GMC buses and has total assets of approximately $65,000.

4. That the Applicant now has nine (9) full-time and two (2) part-time employees with four (4) of the employees being qualified and experienced bus drivers.

5. That the Applicant, under authority from the Interstate Commerce Commission, is now operating buses from Asheville to Atlanta and from Atlanta to Asheville on a daily basis.

6. That the service presently rendered by previously authorized motor carriers over the proposed route is inadequate to meet the requirements of public convenience and necessity in view of the Intervenor's announced intention to abandon such service.

7. That Continental Southeastern Lines (Intervenor) is the only passenger carrier other than Applicant serving the proposed route.

8. That Continental Southeastern Lines, Inc. (Intervenor) does not oppose the granting of the application.

9. That public convenience and necessity require the proposed service in addition to existing, authorized transportation service.

10. That the Applicant is fit, willing and able to properly perform the proposed service.

11. That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

12. That the proposed service will not unlawfully affect service to the public by other public utilities.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The Commission concludes that the proposed service is in the public interest; that there is a need and demand for such service in addition to existing authorized service, which need can best be met by Applicant; that the proposed service will not unlawfully affect service to the public by other public utilities; that the Applicant is fit, willing and able to perform the proposed service; that the Applicant is solvent and financially able to furnish adequate service on a continuing basis; and that the application should be approved.

IT IS, THEREFORE, ORDERED:

1. That the application of American Coach Lines, Inc. for authority to engage in the transportation of passengers, their baggage, mail and light express as more particularly described in Exhibit A attached hereto and made a part hereof, be, and the same is hereby, approved.

2. That American Coach Lines, Inc., to the extent it has not done so, shall file with the Commission evidence of insurance, tariffs of fares, rates and charges, timetables and lists of equipment to be used in conjunction with the authority herein acquired within thirty (30) days from the date this Order is issued.

3. That American Coach Lines, Inc. shall forthwith seek permission from the Office of the Secretary of the State of North Carolina to transact business in the State of North Carolina as a foreign corporation.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. B-325

American Coach Lines, Inc.
486 Fairmont Drive
Norcross, Georgia 30071

Motor Passenger Carrier

EXHIBIT A

Transportation of passengers, their baggage, mail and light express, over the following route:

"From the Georgia-North Carolina State Line over U.S. Highway 23 and 441 to Cillsboro, thence over U.S. Highway 23 and 19A to Asheville,

North Carolina, and return, serving all intermediate points."

DOCKET NO. B-7, SUB 92
DOCKET NO. B-7, SUB 93
DOCKET NO. B-103, SUB 18
DOCKET NO. B-313, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

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| DOCKET NO. B-7, SUB 92 | ) |
| Greyhound Lines, Inc., Phoenix, Arizona - | ) |
| Petition for Authority to Discontinue Bus | ) |
| Passenger Service Over Certain Designated | ) |
| Routes Within North Carolina, Effective | ) |
| June 1, 1976; | ) |
| and | ) |
| DOCKET NO. B-7, SUB 93 | ) ORDER GRANTING |
| Greyhound Lines, Inc., Phoenix, Arizona - | ) PETITIONS OF |
| Petition for Authority to Discontinue Bus | ) GREYHOUND |
| Passenger Service Over Certain Designated | ) LINES, INC., TO |
| Routes Within North Carolina, Effective | ) DISCONTINUE BUS |
| June 1, 1976; | ) SERVICE - |
| and | ) GRANTING |
| DOCKET NO. B-103, SUB 18 | ) APPLICATION OF |
| Wilkes Transportation Company, Inc., | ) WILKES |
| Winston-Salem, North Carolina - | ) TRANSPORTATION |
| Application for Authority to Engage in the | ) COMPANY FOR |
| Transportation of Passengers Over Certain | ) ADDITIONAL |
| Designated Routes Within North Carolina; | ) OPERATING |
| and | ) AUTHORITY |
| DOCKET NO. B-313, SUB 1 | ) |
| Ralph Ownbey, d/b/a Twin State Coach | ) |
| Lines, Bristol, Virginia - Application for | ) |
| Authority to Engage in the Transportation | ) |
| of Passengers Over Certain Designated | ) |
| Routes Within North Carolina | ) |

HEARD IN: The Hall of Justice, Wilkesboro, North Carolina, on Tuesday, May 18, 1976

BEFORE: Commissioner J. Ward Purrington

APPEARANCES:

For the Applicant Greyhound:

Ralph McDonald, Attorney at Law, Bailey, Dixon, Wooten, McDonald & Fountain, Post Office Box 2246, Raleigh, North Carolina 27602

For the Applicant Wilkes Transportation Company, Inc., and Piedmont Coach Lines:

Kyle Hayes and Samuel Evans, Attorneys at Law, Hayes and Hayes, Box 64, North Wilkesboro, North Carolina 28659

For the Applicant Ralph Ownbey, d/b/a Twin State Coach Lines:

Ralph McDonald, Attorney at Law, Bailey, Dixon, Wooten, McDonald & Fountain, Post Office Box 2246, Raleigh, North Carolina 27602

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

PURRINGTON, HEARING COMMISSIONER: On March 29, 1976, Greyhound Lines, Inc. (Greyhound), Phoenix, Arizona, filed a Petition with the Commission proposing to discontinue bus service between Winston-Salem and North Wilkesboro, North Carolina, as follows:

"Between North Wilkesboro and Winston-Salem via U.S. Highway 421 to Cycle, thence over Yadkin County County Road No. 1314 via Brooks Cross Roads to Yadkinville, thence over Yadkin County County Road No. 1605 to the Yadkin-Forsyth County Line, thence over Forsyth County County Road No. 1525 via Pfafftown to the junction of N.C. Highway 67; thence over N.C. Highway 67 to Winston-Salem.

Between North Wilkesboro and junction N.C. Highway 115 and U.S. Highway 421 (approximately 2 miles southeast of North Wilkesboro) over N.C. Highway 115."

This proceeding is Docket No. B-7, Sub 92.

Greyhound also filed a Petition to discontinue bus service between North Wilkesboro and Boone, North Carolina, as follows:

"Between North Wilkesboro and Boone, North Carolina, over U.S. Highway 421A to its junction with N.C. Highway 16, thence over N.C. Highway 16 to Miller's Creek, thence over Wilkes County County Road No. 1304 to its junction with U.S. Highway 421, thence via U.S. Highway 421 through Deep Gap to Boone."

This proceeding is Docket No. B-7, Sub 93.

On March 29, 1976, Wilkes Transportation Company, Inc. (Wilkes), Winston-Salem, North Carolina, filed Application for common carrier authority to engage in the transportation

of passengers and their baggage, mail, and light express between Winston-Salem and North Wilkesboro as follows:

"(1) Over U.S. Highway 421 between North Wilkesboro, North Carolina and Winston-Salem, North Carolina via Brooks Crossroads and Yadkinville - 55 miles

(2) Over U.S. Highway 21 between Elkin, North Carolina and Brooks Crossroads, 11 miles (applicant now has operating rights between North Wilkesboro, North Carolina and Elkin North Carolina over highway 268 and from Elkin to Winston-Salem via Boonville and East Bend over 87 to Winston-Salem, North Carolina - 20.7 miles)

(3) From Brooks Crossroads over Old Highway 421 (Yadkin County Road 1314) to Yadkinville; thence over Yadkin County Road No. 1605 to the Yadkin/Forsyth line; thence over Forsyth County Road No. 1525 via Vienna and Pfafftown to the Intersection of Highway 67."

This proceeding is Docket No. E-103, Sub 18. Thereafter, Wilkes filed an amendment to its Application to include the following route between North Wilkesboro and Boone:

"4. Between North Wilkesboro and Boone, North Carolina, over U.S. Highway 421-A to its junction with N. C. Highway 16, thence over N.C. Highway 16 to Millers Creek, thence over Wilkes County Road No. 1304 to its junction with U.S. Highway 421, thence via U.S. Highway 421 through Deep Gap to Boone."

This amendment was allowed by Commission Order of May 10, 1976.

On March 29, 1976, Ralph Ownbey, d/b/a Twin State Coach Lines, Bristol, Virginia, filed an Application for bus passenger common carrier authority between North Wilkesboro and Boone as follows:

"Between North Wilkesboro and Boone over U.S. Highway 421A to its junction with North Carolina Highway 16, thence over North Carolina Highway 16 to Millers Creek, thence over Wilkes County - County Road No. 1304 to its junction with U.S. Highway 421, thence via U.S. Highway 421 through Deep Gap to Boone."

On May 5, 1976, Wilkes Transportation Company filed protest to this Application. This protest was acknowledged by Commission Order of May 10, 1976, and Wilkes was made a party-protestant to the Application of Twin State Coach Lines.

The hearing in all four dockets was scheduled in Wilkesboro, North Carolina, on May 18, 1976. The Petitioner Greyhound and the Applicants Wilkes Transportation Company and Twin State Coach Lines were required to give notice to the public by appropriate publication. Greyhound was

required to continue service over its routes pending final determination and Order by the Commission. The dockets were consolidated for hearing by Order of May 10, 1976.

These dockets came on for hearing as scheduled. Greyhound, Wilkes, and the Commission Staff were present and represented by counsel. It was announced that Twin State Coach Lines was withdrawing its Application; the Hearing Commissioner allowed the withdrawal of the Application. Greyhound presented the testimony and exhibits of William Henry Rountree, Area General Manager, Greyhound Lines. Wilkes Transportation Company offered the testimony and exhibits of the following witnesses: John Garwood, Vice President, Lineberry Foundry and Machinery Company, and a member of the Board of Trustees of Appalachian State University; Bill Fletcher, a student at Appalachian State University; Don Rhodes, insurance agent and Vice President, Insurance Service and Credit Corporation, North Wilkesboro; Joan Johnson, employee, Union Bus Station, North Wilkesboro; D. B. Deal, Chairman of the Board, Northwestern Financial Corporation, North Wilkesboro; Max Foster, former county commissioner, Wilkesboro; Fred Hughes, bus driver, Piedmont Coach Lines; and Kenneth Chilton, President, Piedmont Coach Lines and Wilkes Transportation Company. Howard Jestes, a member of the public, also testified.

Based on the Application and the Petitions and the testimony and exhibits presented at the hearing, the Hearing Commissioner makes the following

## FINDINGS OF FACT

(1) Greyhound Lines, Inc., is a common carrier of passengers certificated by this Commission and is engaged in the transportation of passengers in North Carolina intrastate commerce.

(2) Wilkes Transportation Company is a common carrier of passengers certificated by this Commission and is engaged in the transportation of passengers in North Carolina intrastate commerce. Wilkes is a wholly-owned subsidiary of Piedmont Coach Lines, Inc. (Piedmont), of Winston-Salem. Piedmont intends to merge Wilkes into Piedmont as soon as it obtains the necessary governmental approval.

(3) Greyhound seeks authority to discontinue intrastate bus passenger service over certificated routes between Winston-Salem and North Wilkesboro and between North Wilkesboro and Boone.

(4) Wilkes Transportation Company seeks authority for bus passenger common carrier authority between Winston-Salem and North Wilkesboro and between North Wilkesboro and Boone.

(5) Greyhound presently provides bus passenger service between Winston-Salem and Boone via North Wilkesboro on Friday and Sunday. On these days Greyhound leaves Winston-

Salem at 2:00 p.m. and arrives in Boone at 4:15 p.m. Greyhound leaves Boone at 4:15 p.m. and returns to Winston-Salem at 6:30 p.m. The 4:15 p.m. arrival in Boone enables Greyhound to make a connection with Twin State Coach Lines, which arrives in Boone at 4:15 p.m. on Friday and Sunday.

(6) During 1975 Greyhound experienced a substantial loss on its Winston-Salem to Boone operations. Using a system cost per mile of 12.62 cents, Greyhound had a loss of $18,249 on this route during 1975. Using an out-of-pocket cost of 65.38 cents, Greyhound had a loss of $8,869.

(7) During 1975 Greyhound transported more than 1000 passengers on its Winston-Salem to Boone route. Greyhound's average monthly passenger load for this route in 1975 ranged from 4.1 to 5.3.

(8) Most of Greyhound's passengers on this route are students attending Appalachian State University in Boone. Most of Greyhound's passengers travel from Winston-Salem to Boone, from Boone to Winston-Salem, and to parts beyond.

(9) Wilkes Transportation Company presently provides service between Winston-Salem and North Wilkesboro via Elkin, and return, twice daily, Monday through Saturday, and once on Sunday. On Monday through Saturday Wilkes leaves Winston-Salem at 6:45 a.m. and 1:00 p.m. and leaves North Wilkesboro for the return trip to Winston-Salem at 8:45 a.m. and 2:45 p.m., respectively. On its Sunday service Wilkes leaves Winston-Salem at 1:00 p.m. and leaves North Wilkesboro for Winston-Salem at 2:45 p.m.

(10) Wilkes proposes to provide the following service between Winston-Salem and Boone:

(a) On Friday, from Winston-Salem to Boone via Elkin and North Wilkesboro: to leave Winston-Salem at 1:00 p.m. and arrive in Boone at 4:10 p.m.; to leave Boone at 4:10 p.m. and arrive in Winston-Salem at 7:00 p.m.

(b) On Sunday, from Winston-Salem to Boone via North Wilkesboro: to leave Winston-Salem at 7:30 p.m. and arrive in Boone at 9:55 p.m.; to leave Boone at 9:55 p.m. and arrive in Winston-Salem at 12:35 a.m.

On Fridays Wilkes would retain its 6:45 a.m. service from Winston-Salem to North Wilkesboro and return. On Sundays Wilkes would provide its proposed 7:30 p.m. service between Winston-Salem and Boone and would discontinue its 1:00 p.m. service between Winston-Salem and North Wilkesboro.

(11) Wilkes and its parent company, Piedmont Coach Lines, are fit, willing, and able to operate the proposed routes between Winston-Salem and Boone.

(12) Wilkes and its parent company, Piedmont, are able to operate over the route between Winston-Salem and Boone at operating costs lower than those of Greyhound.

(13) There is a need for bus passenger service between Winston-Salem and Boone, North Carolina.

(14) The proposed service of Wilkes Transportation Company will not adversely affect bus service interconnecting with points on the Winston-Salem to Boone route.

(15) The proposed service of Wilkes Transportation Company should greatly benefit the Appalachian State students who use the service.

(16) Piedmont Coach Lines should begin to effectuate the merger of Wilkes Transportation Company into Piedmont.

CONCLUSIONS

(1) The Commission is of the opinion that the Petitions of Greyhound for authority to discontinue bus service between Winston-Salem and North Wilkesboro and between North Wilkesboro and Boone should be granted and that the Application of Wilkes Transportation Company to provide service between Winston-Salem and Boone should be granted.

(2) The testimony and exhibits of Greyhound's witness Rountree shows that Greyhound is experiencing a substantial loss on the Winston-Salem to Boone route. During the calendar year 1975, Greyhound had an operating loss of $18,249 based on its system cost per mile and a loss of $8,869 based on out-of-pocket cost.

(3) There was sufficient evidence to establish that a need exists for bus passenger service between Winston-Salem and Boone. Greyhound's own evidence shows that over 1,000 passengers used the service during 1975. (Greyhound Exhibit 7) Many, if not most, of these passengers are students attending Appalachian State University at Boone; the regulations of the university do not allow freshmen to have cars. The testimony of Mr. Chilton, the president of Wilkes and Piedmont, also showed the need for passenger bus service between Winston-Salem and Boone.

(4) The Commission finds and concludes that Wilkes Transportation Company is fit, willing, and able to provide bus passenger service between Winston-Salem and Boone. Wilkes is a wholly-owned subsidiary of Piedmont Coach Lines and, according to the testimony of President Chilton, will be merged into Piedmont at an early date. Piedmont and Wilkes have sufficient equipment to provide service over the proposed route. Piedmont had an operating ratio of 92.5% in 1975, a commendable achievement during a time of rising costs. Piedmont can operate between Winston-Salem and Boone at operating costs lower than those of Greyhound. Since Piedmont and Wilkes are presently operating between Winston-

Salem and North Wilkesboro, they will incur additional operating costs only over the North Wilkesboro to Boone segment. Piedmont, however, will expect to receive all of Greyhound's revenues from the Winston-Salem to Boone route, as well as intrastate charter revenues in Boone. The proposed Sunday schedule of Wilkes wherein its bus will leave Winston-Salem for Boone at 7:30 p.m., instead of Greyhound's present departure at 2:00 p.m., shows the willingness of Wilkes to meet the needs of its passengers.

(5) The Commission is further of the opinion that Piedmont should begin to effectuate the merger of Wilkes into Piedmont at the earliest possible date.

IT IS, THEREFORE, ORDERED:

(1) That the Petitions of Greyhound Lines, Inc., for authority to discontinue passenger service between Winston-Salem and North Wilkesboro, North Carolina, and between North Wilkesboro and Boone be, and the same hereby are, granted and that Greyhound's common carrier certificate No. B-7 be amended accordingly.

(2) That the Application, as amended, of Wilkes Transportation Company be, and the same hereby is, granted; that Wilkes shall have the authority to operate over the routes set out in Appendix A attached to this Order and made a part hereof; and that its certificate No. B-103 be amended accordingly.

(3) That Greyhound Lines, Inc., shall notify the Commission of the date on which it discontinues service as herein authorized.

(4) That Wilkes Transportation Company shall notify the Commission of the date it commences operations over the routes herein authorized.

(5) That Wilkes Transportation Company shall file tariffs of fares and charges and time schedules for the service herein authorized and shall otherwise comply with the Commission's Rules and Regulations.

(6) That Piedmont Coach Lines shall begin to effectuate the merger of Wilkes Transportation Company into Piedmont as soon as possible.

(7) That Wilkes Transportation Company shall file with the Commission a report setting forth its operating experience over the Winston-Salem to Boone route approved in this Order, including such information as the number of passengers carried, revenues, operating costs, and any complaints of its service. This report shall be made twice, once at the end of six months and once at the end of one year from the effective date of commencing operations.

ISSUED BY ORDER OF THE COMMISSION.

This 15th day of June, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-103, SUB 18

Wilkes Transportation Company, Inc.
3636 Glenn Avenue
Winston-Salem, North Carolina

EXHIBIT A

Transportation of passengers, their baggage, mail and light express, as follows:

(1) Over U. S. Highway 421 between North Wilkesboro, North Carolina, and Winston-Salem, North Carolina, via Brooks Crossroads and Yadkinville.

(2) Over U. S. Highway 21 between Elkin, North Carolina, and Brooks Crossroads, North Carolina.

(3) From Brooks Crossroads over Old Highway 421 (Yadkin County Road 1314) to Yadkinville; thence over Yadkin County Road No. 1605 to the Yadkin/Forsyth County Line; thence over Forsyth County Road No. 1525 via Vienna and Pfafftown to the intersection of Highway 67.

(4) Between North Wilkesboro and Boone, North Carolina over U. S. Highway, 421-A to its junction with N. C. Highway 16; thence over N. C. Highway 16 to Millers Creek; thence over Wilkes County Road No. 1304 to its junction with U. S. Highway 421; thence via U. S. Highway 421 through Deep Gap to Boone.

DOCKET NO. B-88, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suburban Bus Lines Company, P. O. Box 5236, Greensboro, North Carolina 27403 - Application for Authority to Reinstate Service Under a Portion of Certificate No. B-88 ) RECOMMENDED ORDER REINSTATING AUTHORITY

HEARD IN: Grand Jury Room, Guilford County Courthouse, Greensboro, North Carolina, on 16 September 1976, at 10:00 A.M.

APPEARANCES:

For the Applicant:

D. P. Whitley, Jr.
411 Law Building
212 E. Green Street
High Point, North Carolina 27261

For the Protestant:

Charlie B. Casper
Smith & Casper
Law Building
Asheboro, North Carolina 27203

WIKE, HEARING EXAMINER: On 28 June 1976, Suburban Bus Lines Company filed with the Commission an Application for authority to reinstate service under a portion of Certificate No. B-88 authorizing the transportation of passengers, their baggage, mail, and light express, as follows:

"Over Friendly Road from Greensboro west to Guilford College, thence in a southerly direction along a paved country road about a mile to Guilford College Station, crossing U.S. Highway 421 and I-40 and continuing in a southerly direction along said country road about 2.2 miles to Idol's Cross Roads and return to Greensboro over the same route."

By order issued 9 July 1976 the Commission reinstated service under the above portion of Certificate No. B-88 on a temporary basis pending final determination by the Commission of the Application for permanent operating authority.

On 26 July 1976 a Protest to the Application was filed by McGill's Taxi and Bus Lines, Inc., d/b/a Asheboro Coach Company. By order issued 5 August 1976 the Commission allowed the protest and assigned the Application for public hearing on 16 September 1976.

The matter came on for hearing as scheduled with both the Applicant and the Protestant present and represented by counsel. The Applicant's first witness was Lindsay F. Moore, manager of Suburban Bus Lines Company.

Mr. Moore testified that Suburban had been in continuous operation in the Greensboro area for 38 years when rising costs led him to decide to discontinue Suburban's Friendly Road service in March of 1976. He stated that no other bus line offers service identical to that proposed and currently being provided by Suburban, namely, service from Greensboro to Idol's Crossroads and return by way of Friendly Road and Guilford College/Jamestown Road at 12:30 p.m. daily, Monday through Friday. Mr. Moore further testified that Suburban

owns three buses, all in good condition, and employs one part-time driver. He offered as exhibits a statement of Suburban's financial position at 31 December 1975 and a map showing the proposed route.

On cross-examination, Mr. Moore testified that Carolina Trailways operates between Greensboro and High Point and passes through Idol's Crossroads by way of Wendover Avenue several times a day. He further testified that Suburban discontinued its Idol's Crossroads service some two or three years prior to March 1976.

Seven public witnesses, residents of the area between Guilford Station and Idol's Crossroads, testified in support of the Application. Their testimony, on the whole, tended to show that there are a number of persons living near the proposed route who rely on public transportation to and from Greensboro. Some of these witnesses testified that they live between Guilford Station and Interstate 85 and can ride a Duke Power Company bus to and from Greensboro twice a day but must walk to Guilford Station to ride the bus at other times. They also testified that, with the exception of Suburban, there are no buses along the Guilford College/Jamestown Road to I-85 in the middle of the day.

The Protestant presented the testimony of Bruce Dones, a resident of Route 2, Jamestown, approximately one-half mile from Idol's Crossroads. Mr. Dones testified that in the five years he has lived and worked in the area he has never seen or known of a bus route operated by Suburban south of Highway 421.

Jim Laumann, Transportation Planner for the City of Greensboro, also testified for the Protestant. He stated that the city is conducting a transit study and that he contacted Mr. Moore in March of 1976 with regard to whether Suburban was going to provide service in the future. The Protestant's third witness was William H. Linn, manager of the Transportation Department for Duke Power Company in Greensboro, who testified that Duke Power has buses leaving the central business district at 7:00, 8:00 and 9:00 a.m. and 1:30, 2:30, 3:30 and 4:30 p.m., traveling along Friendly Avenue and Jamestown/Guilford College Road to Highway 421 and returning. He added that the first and last trips go as far as I-40 in order to serve workers at CIBA-GEIGY. Mr. Linn further testified that Duke Power Company began making seven trips a day to Guilford College in late March 1976.

Based upon the foregoing, the verified application, and the entire record in this docket, the Hearing Examiner makes the following

## FINDINGS OF FACT

1. That the Applicant is a corporation organized and operating under the laws of the State of North Carolina.

2. That the Applicant has filed Application with the Commission for reinstatement of common carrier authority to transport passengers, their baggage, mail and light express over the following route:

"Over Friendly Road from Greensboro west to Guilford College, thence in a southerly direction along a paved country road about 1 mile to Guilford College Station, crossing U.S. Highway 421 and I-40 and continuing in a southerly direction along said country road about 2.2 miles to Idol's Cross Roads and return to Greensboro over the same route."

3. That the Applicant employs an experienced driver, owns three buses, and has total assets of $19,230.

4. That the Applicant operated a bus company in Greensboro and vicinity for 38 years prior to March, 1976.

5. That no service identical to that proposed by the Applicant is being offered by any authorized motor carrier over the proposed route.

6. That the proposed service will not unlawfully affect service to the public by other public utilities, including the Protestant.

7. That the Protestant opposes the Application for regular route authority only insofar as incidental charter rights are involved.

8. That the record is silent with respect to the need for transportation of mail and light express over the proposed route.

9. That public convenience and necessity require the proposed service, except the transportation of mail and light express, to be rendered daily, Monday through Friday.

10. That the Applicant is fit, willing and able to properly perform the proposed service.

11. That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

Based upon the foregoing Findings of Fact, the Hearing Examiner reaches the following

## CONCLUSIONS

The Hearing Examiner concludes that the proposed service is in the public interest and that there is a need and demand for such service to be rendered daily, Monday through Friday, which need has been and in the future can best be met by the Applicant; that the proposed service will not unlawfully affect service to the public by other public utilities; that the Applicant is fit, willing and able to

perform the proposed service; that the Applicant is solvent and financially able to furnish adequate service on a continuing basis; and that the Application for reinstatement of permanent authority should be approved as herein provided.

IT IS, THEREFORE, ORDERED as follows:

1. That the Application of Suburban Bus Lines Company for reinstatement of authority to engage in the transportation of passengers and their baggage, as more particularly described in Exhibit A attached hereto and made a part hereof, be, and hereby is, approved.

2. That the Application of Suburban Bus Lines Company for reinstatement of authority to engage in the transportation of mail and light express be, and hereby is, denied.

3. That Suburban Bus Lines Company, to the extent it has not done so, shall file with the Commission evidence of insurance, tariffs of fares, rates and charges, timetables and lists of equipment to be used in conjunction with the authority herein acquired within thirty (30) days from the date this order is issued.

4. That Suburban Bus Lines shall maintain its books and records in such a manner that all of the applicable items of information required in the company's prescribed Annual Report to the Commission can be readily identified from the books and records and can be utilized by the company in the preparation of its Annual Report.

ISSUED BY ORDER OF THE COMMISSION.

This 16th day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Suburban Bus Lines Company Certificate No. B-88
Greensboro, North Carolina

Exhibit A

Transportation of passengers, and their baggage, as follows:

Over Friendly Road from Greensboro west to Guilford College, thence in a southerly direction along a paved country road about a mile to Guilford College Station, crossing U.S. Highway 421 and I-40 and continuing in a southerly direction along said country

road about 2.2 miles to Idol's Cross Roads and return to Greensboro over the same route.

DOCKET NO. B-105, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Motor Bus Common Carriers - Suspension and Investigation of Proposed Increase in Intercity Bus Passenger Fares and Bus Package Express Rates and Charges, Effective September 1, 1975 | ) | ORDER APPROVING INCREASE IN RATES AND CHARGES |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on January 28, 1976

BEFORE: Commissioner Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney and Barbara A. Simpson

APPEARANCES:

For the Respondents:

Arch T. Allen, Allen, Steed and Pullen, Attorneys at Law, P. O. Box 2058, Raleigh, North Carolina 27602
For: Carolina Coach Company

J. Ruffin Bailey, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27602
For: Greyhound Lines, Inc.

R. C. Howison, Jr., Joyner and Howison, Attorneys at Law, Wachovia Bank Building, Raleigh, North Carolina 27602
For: Continental Southeastern Lines, Inc.

David L. Ward, Jr., Ward, Tucker, Ward and Smith, Attorneys at Law, 310 Broad Street, New Bern, North Carolina
For: Seashore Transportation Company

Clarence H. Noah, Attorney at Law, 1425 Park Drive, Raleigh, North Carolina 27602
For: Southern Coach Company

For the Intervenor:

I. Beverly Lake, Jr., Deputy Attorney General, Richard L. Griffin, Assistant Attorney General, Jesse Brake, Assistant Attorney General, North Carolina Department of Justice, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, E. Gregory Stott, Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 1, 1975, Carolina Coach Company, Continental Southeastern Lines, Inc., Fort Bragg Coach Company, Greyhound Lines, Inc., Seashore Transportation Company, Southern Coach Company, Wilkes Transportation Company, Inc., and National Bus Traffic Association, Inc., Agent, either individually and/or by National Bus Traffic Association, Inc., Agent, for and on behalf of its member carriers, filed with this Commission Application No. 51 requesting an increase of nine percent (9%) in bus passenger fares, with resulting increased fares rounded to end in the next "0" or "5," and an increase of six percent (6%) in bus express package rates, with resulting increased fares rounded to end in the next "0" or "5." Appalachian Coach Company, Inc., Central Buslines of North Carolina (S. D. Small d/b/a), D & M Bus Company Corporation, Gaston-Lincoln Transit, Inc., Piedmont Coach Lines, Inc., Safety Transit Lines (R. H. Gauldin d/b/a), Twin State Coach Lines (Ralph Ownbey d/b/a), and Virginia Dare Transportation Company, Inc., either individually and/or by National Bus Traffic Association, Inc., Agent, also joined in the above Application with respect to the proposed increase in package express rates. The above filing was requested to become effective September 1, 1975.

On August 6, 1975, the National Bus Traffic Association, Inc., Agent, for and on behalf of North Carolina Common Carriers of Passengers by Motor Vehicles, filed a Petition with this Commission seeking relief from an outstanding Order of the Commission in Docket No. B-105, Sub 34, dated March 20, 1975, in accordance with G.S. 62-79(b), to permit the new tariff filings described above. By Order issued August 7, 1975, the Commission granted said Petition.

By Order issued August 27, 1975, the Commission, being of the opinion that the proposed increased fares and rates are matters affecting the public interest, declared the matter to be a general rate case pursuant to G.S. 62-137; suspended the proposed tariff schedules to and including May 28, 1976, pursuant to G.S. 62-134; set the matter for hearing before the Commission beginning January 28, 1976, with the burden

of proof being placed on the bus passenger carriers to show that the proposed increased rates and fares are just and otherwise lawful and reasonable as required by G.S. 62-75 and with the carriers' attention being directed to Commission Rule R1-17 and G.S. 62-134; and required the bus passenger carriers to give notice of such hearing by publication in newspapers having general circulation in the area involved.

On September 8, 1975, the National Bus Traffic Association, Inc., Agent, for and on behalf of the North Carolina common carriers of passengers by motor vehicle, filed with the Commission Application No. 52 seeking authority as follows: to cancel Suspension Supplement No. 26, being Supplement No. 19 to its Carolina Charter Coach Tariff No. A-426, N.C.U.C. No. 199, to place into effect certain tariff items containing the correction of the name of Greyhound Lines - East Division to Greyhound Lines, Inc.; to add R. H. Gauldin, d/b/a Safety Transit Lines, to Carolina Charter Coach Tariff No. A-426, N.C.U.C. No. 199, in lieu of his individual filing; to eliminate the equipment point at Boone and to reduce the number of buses shown at the Salisbury equipment point from three to two for the account of Continental Southeastern Lines, Inc. The above filing was requested to become effective on one day's notice to the Commission and to the public.

By Order issued September 17, 1975, the Commission granted Application No. 52 in part to permit the publication of Supplement No. 27 to Carolina Charter Coach Tariff No. A-426, being Supplement No. 20 to N.C.U.C. No. 199, and to allow matters under suspension by publication of Supplement No. 26 to the Tariff, being Supplement No. 10 to Carolina Charter Coach Tariff No. A-426, N.C.U.C. No. 199, to become effective on one day's notice, except that matters published on the nineteenth Revised Page B-5 of said tariff proposing to eliminate the equipment points of Boone and Salisbury were suspended to and including May 28, 1976. The Commission further ordered that an investigation be instituted into the lawfulness of that portion of the tariff schedule which had been suspended, consolidated the matter with the investigation in this docket previously assigned for hearing beginning January 28, 1976, and required the bus passenger carriers to give additional notice of the proceeding by publication in newspapers having general circulation in the area.

On September 23, 1976, Continental Southeastern Lines, Inc., filed a Motion requesting modification of the Commission's Order of September 17, 1975, to require publication of notice with respect to the elimination or reduction of equipment points only in newspapers in the areas affected. By Order of the Commission issued September 30, 1975, the Motion of Continental Southeastern Lines, Inc., was granted.

On October 13, 1975, the Attorney General of North Carolina, filed Notice of Intervention on behalf of the using and consuming public. By Order issued October 14, 1975, the Commission recognized the Intervention of the Attorney General.

On January 5, 1976, the Commission Staff filed a Motion for Extension of Time to file testimony of James L. Rose, which Motion was allowed by Commission Order issued January 6, 1976.

On January 23, 1976, the Attorney General filed with the Commission a Motion to Dismiss the Application for rate increase in this docket. The Attorney General filed an Amended Motion to Dismiss on January 26, 1976.

The Commission by Order issued January 26, 1976, set the above Motion of the Attorney General for oral argument before the Commission on January 28, 1976, at the convening of the hearing in this docket. On January 28, 1976, counsel for Seashore Transportation Company filed an Answer to the Attorney General's Motion to Dismiss.

By telegram filed with the Commission on January 28, 1976, P. J. Campbell, Chairman, National Bus Traffic Association, Inc., authorized Arch T. Allen, David L. Ward, Jr., J. Ruffin Bailey, and R. C. Howison, Jr., to appear as counsel for the National Bus Traffic Association, Inc., Agent, in this proceeding. The Attorney General on February 9, 1976, filed a response and Objection to Filing by Counsel and Verification by Corporate Officer and Renewal of Motion to Dismiss.

The matter came on for hearing as previously ordered by the Commission on January 28, 1976, at 10:00 a.m. The Commission heard oral argument by all interested parties on the Attorney General's Motion to Dismiss and deferred ruling on the Motion.

The Respondents offered testimony and exhibits of the following witnesses: R. C. O'Bryan, Traffic Manager, Seashore Transportation Company; Malcolm Meyers, Director of Traffic, Continental Southeastern Lines, Inc.; Robert E. Brown, Treasurer, Carolina Coach Company; Aaron Cruise, Vice President of Traffic, Carolina Coach Company; Robert L. Wilson, Director of Traffic, Greyhound Lines, Inc.; and G. V. McQuinn, Internal Auditor, Greyhound Lines, Inc.

The Commission Staff offered the testimony and exhibits of three witnesses: James L. Rose, Chief, Transportation Rates and Tariff Section of the Traffic and Transportation Division; George E. Dennis, Staff Accountant; and Gary Jewell, Staff Accountant.

Upon completion of the presentation of all the evidence in this proceeding, the presiding Commissioner Mr. Deane announced that the parties would be allowed to file

recommended orders and/or briefs not later than thirty (30) days after the mailing of the transcript. The final volume of the transcript in this docket was mailed on March 17, 1976. On April 2, 1976, the Respondents filed a Motion for Extension of Time within which to file a recommended Order and supporting brief to and including Friday, April 30, 1976. By Order issued April 5, 1976, the Commission granted the above Motion. On April 30, 1976, all parties filed briefs and/or recommended orders in this docket.

Based on the foregoing, the verified Application, the testimony and exhibits received into evidence at the hearing, and the entire Commission record with regard to this proceeding, the Commission now makes the following

## FINDINGS OF FACT

(1) That the Respondent passenger carriers in this docket are engaged in the intercity transportation of passengers in North Carolina intrastate commerce and are subject to the jurisdiction of this Commission under the Public Utilities Act.

(2) That the Application on behalf of the Respondent carriers was verified by P. J. Campbell, Chairman, National Bus Traffic Association, Inc., Agent, and signed by authorized counsel.

(3) That four of the Respondent carriers offered testimony and exhibits in this proceeding. They are Carolina Coach Company, Seashore Transportation Company, Greyhound Lines, Inc., and Continental Southeastern Lines. These four carriers account for in excess of 95% of the gross operating revenues and expenses of the intercity motor passenger carriers subject to the Commission's jurisdiction.

(4) That the tariffs filed with the Commission on August 1 and September 8, 1975, by the National Bus Traffic Association, Inc., Agent, on behalf of its member carriers, and supporting documentation submitted by the four major carriers, contain all of the material data necessary for a determination by the Commission of the justness and reasonableness of the rates proposed in this proceeding.

(5) That in the previous general rate proceeding, Docket No. B-105, Sub 34, the Respondent carriers were allowed increases in their rates and charges pursuant to an Order dated March 20, 1975. By Order of August 7, 1975, the Commission granted the carriers relief from its orders in the above docket to permit new tariff filings.

(6) That the Respondent carriers in this proceeding are seeking an increase of approximately nine percent (9%) in bus passenger fares, rounded to the next "0" or "5," and an increase of approximately six percent (6%) in bus package express rates, rounded to the next "0" or "5."

(7) That the procedures used by the four major carriers to allocate revenues and expenses are inconsistent, and the reported operating ratios are unreliable for purposes of this proceeding.

(8) That the procedures used by the Commission Staff to allocate revenues and expenses of the four major carriers are generally consistent and produce the most reliable operating statistics in this proceeding.

(9) That the North Carolina intrastate operating ratio of Seashore Transportation Company was approximately 98% for the test year adjusted to December 31, 1975, expense levels.

(10) That the North Carolina intrastate operating ratio for Continental Southeastern Lines was approximately 96% for the test year adjusted to December 31, 1975, expense levels.

(11) That the composite North Carolina intrastate operating ratio for the four major carriers for the test year adjusted to December 31, 1975, expense levels was approximately 88%.

(12) That the rate increase granted herein will produce an operating ratio of approximately 92% for Continental Southeastern Lines and 94% for Seashore Transportation Company and a four-carrier composite operating ratio of approximately 85%, which the Commission finds to be just and reasonable.

(13) That Continental Southeastern Lines, Inc., presently operates a "paper" equipment point at Boone, North Carolina; it has no maintenance facilities at Boone and cannot maintain buses physically at that location. Continental has not moved any large charters from Salisbury in the past few years, and, therefore, it desires to reduce the availability of buses at that equipment point from three to two.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 5, AND 6

Evidence supporting these findings of fact is contained in the official files of the Commission in Docket No. B-105, Subs 34 and 35, and requires no further explanation.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2, 3, AND 4

The Motion of the Attorney General to dismiss the Application in this docket raises a threshhold question: Whether the tariff filing by the National Bus Traffic Association, Inc., Agent, for and on behalf of its member carriers, and subsequent data submitted by the four major carriers in North Carolina, fails to comport with the requirements of the North Carolina General Statutes and the Rules and Regulations of this Commission. For reasons hereinafter stated, the Commission is of the opinion that

the Application of the carriers is not defective and that the Motion of the Attorney General should be denied.

G.S. 62-259 provides that it is the declared policy of the State of North Carolina "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...." Accordingly, it has been the policy of this Commission to set motor bus rates based upon uniform tariff filings of the National Bus Traffic Association, Inc., Agent, for and on behalf of its member carriers. Since the four major carriers represent over 95% of the revenue passenger traffic, their operating revenues and expenses may be considered reasonably typical of the rate conditions of all motor bus passenger carriers in North Carolina. See Utilities Commission v. State, 250 N.C. 410 (1959). The operating experience of the other eleven carriers, although pertinent to such proceedings, is not representative of the industry. The Commission is of the opinion that to require statistical evidence of the smaller carriers, some of which have no regular route passenger operations, would be to impose a costly and unreasonable burden on them.

Unlike the rates of electric, gas, and telephone utilities, motor carrier rates are judged on the basis of operating ratios. According to G.S. 62-146, the value of the carriers' property may not be considered. Consequently, data relating to fair value enumerated in Commission Rule R1-17(b) has no place in this proceeding. The Commission, therefore, concludes that the motor bus carriers properly omitted such information from their Application. The Commission further concludes that all information which is both required by Rule R1-17(b) and relevant under G.S. 62-146 to a determination of the justness and reasonableness of the tariff filings of the Respondent carriers was submitted at or before the time of hearing in this matter and that any alleged defects in the Application as originally filed were thereby cured.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7 AND 8

The Staff allocated operating expenses using a formula designed in conjunction with Company representatives at a meeting held at their request on June 24, 1975. The formula which resulted from that meeting appears as Jewell Exhibit No. 1 in this docket. According to the formula, all operating expenses (except tolls, baggage and express insurance, uncollectible revenues, licenses and taxes) are to be allocated from system to state by bus-mile ratio and from state to intrastate by passenger-mile ratio.

The Staff allocated operating expenses such that the North Carolina cost per passenger mile for a particular company would be approximately the same for both interstate and intrastate operations. The Staff contended that this procedure is theoretically sound since, according to the

allocation formula, a passenger mile is the primary allocation unit for distributing costs on North Carolina routes on which interstate and intrastate passengers ride simultaneously. The Commission concludes that the Staff's method should be followed in this and subsequent rate proceedings.

Jewell Exhibit No. 10 shows that Continental Southeastern Lines, Inc., and Seashore Transportation Company allocated equal costs per passenger mile to the North Carolina interstate and intrastate portions of their operations, but Carolina Coach allocated a cost per passenger mile which was 11.9% greater than that allocated to interstate operations, and Greyhound allocated a cost per passenger mile which is 70.2% greater. These differences result from the allocation procedures discussed below.

Company Witness Brown testified that Carolina Coach has fewer passengers on its predominately intrastate traffic lanes and, consequently, has more expense per passenger mile in North Carolina. (R.p. 5, Vol. II) This is indeed the result reached using the figures given in Brown Exhibit No. 3. Although Carolina Coach used a weighting process with respect to expenses, the Company failed in its allocation process to weight revenues. The Commission concludes that this was improper.

Jewell Exhibit No. 3 shows that for Carolina Coach Company the Staff allocated expenses pursuant to the agreed-upon formula and considered all system revenues and expenses from which operating statistics were derived. Brown Exhibit No. 3 shows that Carolina Coach used a different procedure. Allocating by division rather than by account, Carolina Coach included total intrastate expenses and then removed those expenses which are not allocable by means of the formula. The Company also included in system figures the excess depreciation expense, together with the other operating revenues and expenses, associated with its separate suburban bus operation but excluded from operating expenses a $2|9,26| gain on the sale of such buses in which the excess depreciation was recaptured. (R.p. |7, Vol. II) The effect of the two interpretations of the formula is shown on Staff Cross-Examination Exhibit No. |: Using operating expenses from Brown Exhibit No. 3 resulted in an overallocation of expenses by Carolina Coach Company of $2|3,000.

The record indicates that Greyhound Lines, Inc., either overallocated its operating expenses or underallocated its operating revenues. McQuinn Exhibit No. 2E, Note E, shows that Greyhound used a passenger-mile ratio of |1.67% to allocate passenger expenses while on McQuinn Exhibit 2F a passenger-mile ratio of 7.27% was derived for allocating passenger revenue. (R.p. |03, Vol. II) The larger ratio was the result of a division weighting from the passenger sample. Greyhound sampled only 0.4% of the system (R. p. |05, Vol. II), and the North Carolina divisions represent

only 0.3% of the system passenger miles. The sample data thus represented only .00|2% of the system.

The Staff used the sample data provided by Greyhound to allocate expenses for the Company. Greyhound, however, divided the sample data into its twenty-nine (29) divisions to weight the passenger-mile ratio used to allocate expenses. The Staff contended that sample data representing only .00|2% of the system is not large enough to be reliable on a division basis and that it is only reasonable to use the same ratio for both revenues and expenses. The Commission agrees.

The Commission concludes that when separate accounts are kept expenses which are not incurred in serving intrastate passengers should be excluded from intrastate figures. Greyhound allocated expenses associated with the Company's SOBO and suburban bus service to North Carolina intrastate operations but eliminated all revenues derived from such services as being inapplicable to intrastate. (R.p. |02, Vol. II) Since separate bus-mile figures were used, the Commission concludes that these nonintrastate expenses should have been eliminated as well. Similarly, Continental Southeastern Lines' "Five-Star Service," serves exclusively interstate traffic for Continental Southeastern. (R. pp. 69 and 70, Vol. I) The Company keeps a separate account of the additional cost of this service, which is an unprofitable one. Nevertheless, the Company has improperly allocated a portion of the cost to North Carclina intrastate. (Id. p. 73)

It was the Staff's position that a revenue ratio is the most meaningful performance factor to be used in allocating system passenger revenue because the samples reflect the North Carolina intrastate contribution to total revenues. A passenger-mile ratio reflects only ridership, not revenue contribution. Use of a passenger-mile ratio (and a revenue factor) results in a lower revenue allocation than use of a revenue ratio. (Compare Dennis Exhibit No. V with O'Bryan Exhibit No. S-|0 and Jewell Exhibits Nos. 2, 5 with Brown Exhibit No. 2 and McQuinn Exhibit No. 2F.)

The Commission is of the opinion that an accurate revenue ratio cannot be derived from less than a system sample and concludes that a revenue ratio derived from a system sample is the proper method of allocating passenger revenue to North Carolina intrastate operations. Carclina Coach Company sampled only its divisions touching North Carclina and did so for only the second quarter of |975. (R.p. |59, Vol. I) Due to the existence of seasonal variations between March and July, coupled with the fact that a |0% interstate rate increase became effective between the second and third sample weeks, the Staff did not consider Carclina Coach's sample representative of the entire test year operations. The Staff, therefore, allocated passenger revenue to North Carolina using a bus-mile ratio, as did the Company, and then applied a corrected revenue ratio to

arrive at North Carolina intrastate passenger revenue. The Company used a passenger-mile ratio and a revenue factor, respectively, resulting in an allocation difference of $155,955. (Brown Exhibit No. 2; Jewell Exhibit No. 2)

The Staff used a system sample as the basis for allocating express revenues. Carolina Coach sampled only seven (or 10%) of its North Carolina stations to arrive at a ratio of North Carolina intrastate to total North Carolina express revenue of 54.6%. (Brown Testimony p. 2) By taking its own sample of these seven stations, the Staff arrived at a comparable figure of 53.2%. A system sample, however, yielded different results (Rose Exhibit No. 6) showing an underallocation of express revenues by the Company of some 25%. (Compare Jewell Exhibit No. 2 and Brown Exhibit No. 2.) The Commission, therefore, concludes that express revenues should be allocated on the basis of a system sample.

Actual counts of charter revenue for Seashore and Carolina Coach were made and reported by the Staff. Carolina Coach derived charter revenue figures from its gross receipts tax report. (Brown Exhibit No. 2, Note 4; R.p. 31, Vol. II) Seashore applied a bus-mile ratio to system charter revenues and then used a "charter passenger-mile ratio" to allocate to North Carolina intrastate. Using an actual count, the Staff reported charter revenues of $106,951 (Dennis Exhibit No. IV) while Seashore's method of allocation resulted in a figure of $83,815. (O'Bryan Exhibit No. S-10) The Commission is of the opinion that a "charter passenger mile" is a meaningless concept since the revenues derived from charter operations bear little relationship to number of passengers. (See R.p. 113-116, Vol. I) As Mr. Brown of Carolina Coach testified, there are no passenger miles on charter business. (R.p. 15, Vol. II)

Also, for Seashore, the Staff included the profit on the Company's Jacksonville, North Carolina, garage operations as a credit to system garage expenses. This garage provides maintenance and repair services to both Seashore's buses and buses of connecting carriers. The profitability of the operation contributes to overhead and inures to the benefit of Seashore and its intrastate passengers. (R.p. 119, Vol. I) Staff Witness Dennis testified that the investment in the garage is carried by Seashore in Account 1200, entitled Carrier Operating Property, and that under the Uniform System of Accounts revenue from the operation of property included in Account 1200 must be included in Account 3900, entitled Other Operating Revenue. Mr. Dennis, therefore, treated expense incurred in the derivation of such income as an operating expense by including profit as a contra-expense item. The Commission concludes that this adjustment is proper and that the Company's accounting for revenue from garage operations is improper.

In summary, the several Respondents have used inconsistent and often incorrect procedures to allocate operating

revenues and expenses in this proceeding. While accepting the basic data submitted by the companies, the Commission questions not only the comparability but also the reliability of the operating ratios reported. It is the duty of the Commission, however, to conduct a full investigation into the rates proposed by the carriers and to make a determination regarding the justness and reasonableness of those rates based upon all of the competent, relevant and material evidence before it in this proceeding. (G. S. 62-130, 131 and 134; Utilities Commission v. Public Service Co., 257 N.C. 233 (1962); Utilities Commission v. Gas Co., 254 N.C. 536 (1961)) Applying consistent and sound allocation procedures to the basic data furnished by the companies in support of the Application herein, the Commission Staff presented evidence which the Commission concludes is competent and provides the most reliable operating ratios for purposes of this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9, 10, 11, and 12

In fixing rates for motor common carriers of passengers operating in intrastate commerce, the Commission must follow the mandate of G. S. 62-146(g), which provides in part:

> "In any proceeding to determine the justness or reasonableness of any rate of any common carrier by motor vehicle, . . . such rates shall be fixed and approved . . . on the basis of the operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues, at a ratio to be determined by the Commission . . ."

Evidence presented by the Commission Staff with respect to carrier operating ratios at the end of the test year included adjustments for increased costs per bus mile as of September 30, 1975. The Commission is of the opinion that the Staff's adjustments do not adequately reflect the actual cost experience of the carriers described at the hearing. The Commission records show that the four major carriers experienced an increase in operating expenses between the end of the test year and the end of the calendar year 1975. Taking judicial notice of the carriers' annual reports for 1975, the Commission concludes that the operating ratios contained in the Staff's evidence should be further adjusted in light of additional increases in costs per bus mile as of December 31, 1975, of 4.1% for Carolina Coach Company, 2.1% for Continental Southeastern Lines, 0.9% for Greyhound Lines, and 2.1% for Seashore Transportation Company. Thus computed, the end of period operating ratios for the four major carriers are as follows: Carolina Coach Company, 83.32%; Continental Southeastern Lines, Inc., 95.54%; Greyhound Lines, Inc., 71.93%; Seashore Transportation Company, 98.01%. The composite test year operating ratio for the four carriers is 88.28%.

Two of the carriers, Seashore and Continental, experienced operating ratios exceeding 95%. These carriers represent approximately 50% of the North Carolina intrastate four-carrier operating revenues. The Commission concludes that under current economic conditions such ratios are unfavorable and demonstrate the need for additional operating revenues.

An increase of four and one-half percent (4-1/2%) in passenger revenues and three percent (3%) in express revenues will produce the following operating ratios based upon adjusted test year operations: Carolina Coach Company, 80.24%; Continental Southeastern Lines, 92.27%; Greyhound Lines, Inc., 69.56%; Seashore Transportation Company, 94.45%. Such increased revenues will produce a composite operating ratio of 85.15% for the four major carriers.

The Commission is of the opinion that a composite operating ratio of approximately 85% for the motor bus passenger carriers in North Carolina is just and reasonable at this time. Accordingly, the Commission concludes that tariffs which will effect a four and one-half percent (4-1/2%) increase in passenger revenues and a three percent (3%) increase in express revenues should be approved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Malcolm Meyers of Continental Southeastern Lines, Inc., testified that a four-month study conducted by the Company showed that only six charter trips would have been affected by the elimination of Boone as an equipment point and none would have been affected by the reduction of the number of buses at Salisbury from three to two. Since the evidence shows that the effect on charter cost will be minimal, the Commission concludes that Continental should be allowed to eliminate the Boone equipment point and to reduce the number of buses at the Salisbury equipment point from three to two as requested.

IT IS, THEREFORE, ORDERED:

1. That the Motion to Dismiss and the Amended Motion to Dismiss filed by the Attorney General be, and the same hereby is, denied.

2. That the Commission's Orders of Suspension and Investigation in this proceeding be, and the same hereby are, vacated and set aside.

3. That the suspension supplements to the Respondents' tariffs be cancelled by the filing of appropriate tariff schedules, that the suspended tariff schedules involved herein, scheduled to become effective on September 1, 1975, be, and they are hereby, disallowed, and, further, that appropriate tariff schedules shall be issued immediately to cancel said tariff schedules, publication to be in accordance with Rule R4-5(e) of the Commission's Rules and

Regulations governing the construction, posting, and filing of transportation tariff schedules.

4. That the Respondents involved herein seeking increased passenger fares be, and hereby are, authorized to publish appropriate tariff schedules providing for increases in local and interline intercity passenger fares, rates and charges in the amount of four and one-half percent (4-1/2%) over those local and interline intercity passenger fares, rates and charges in effect for the account of said Respondents prior to September 1, 1975, and, subsequently, remaining in effect up to the present; provided, that such increased fares, rates and charges be, and the same hereby are, authorized to be increased where necessary to end in the next "0" or "5," subject to a minimum fare of 65¢ to be in accordance with Rule R4-5(e) of the Commission's Rules and Regulations governing the construction, posting, and filing of transportation tariff schedules.

5. That the Respondents involved herein seeking increased local and interline package express rates and charges be, and hereby are, authorized to publish appropriate tariff schedules providing for increases in their local and interline package express rates and charges in the amount of three percent (3%) over those local and interline package express rates and charges in effect for the account of said Respondents prior to September 1, 1975, and, subsequently, remaining in effect up to the present, publication to be in accordance with Rule R4-5(e) of the Commission's Rules and Regulations governing the construction, posting, and filing of transportation tariff schedules.

6. That the proposed elimination of the equipment point Boone, North Carolina, and the reduction of the number of pieces of equipment at the equipment point of Salisbury from three (3) to two (2) buses for Charter Coach Services for the account of Continental Southeastern Lines, Inc., scheduled to become effective on September 2, 1975, be, and the same hereby is, allowed upon appropriate tariff publication as described in paragraph three (3) hereinabove.

7. That in all other respects all other proposed increases in fares, rates and charges, and rule changes involved in this proceeding be, and the same hereby are, denied.

8. That the publications authorized hereby may be made effective on one (1) day's notice to the Commission and the public.

9. That, upon the publications herein authorized having been made, the investigation in this matter be discontinued and the docket closed.

IT IS FURTHER ORDERED:

10. That in future proceedings each carrier shall submit North Carolina intrastate charter expenses based on actual North Carolina intrastate charter bus miles operated multiplied by the individual company's North Carolina cost per bus mile operated as determined by the formula contained in Jewell Exhibit No. 1 in this docket.

11. That in future proceedings before this Commission the motor bus passenger carriers shall allocate all operating expenses other than charter expenses pursuant to the formula contained in Jewell Exhibit No. 1 in this docket, including the allocation of expenses from North Carolina to North Carolina intrastate operations according to passenger-mile ratio such that said expense allocation shall result in costs per passenger mile which are substantially the same for both inter- and intrastate operations.

12. That in the future proceedings each carrier shall furnish to the Commission based upon continuous, unrestricted sampling (from total system) the following data:

(1) Passenger miles - System, North Carolina and North Carolina intrastate

(2) Passenger Revenues - System, North Carolina and North Carolina intrastate

(3) Express Revenues - System, North Carolina and North Carolina intrastate

13. That in future proceedings each carrier shall furnish the following total actual data to the Commission:

(1) System Passenger Revenues, passenger miles and bus miles operated

(2) System Express Revenues

(3) System, North Carolina and North Carolina intrastate charter revenues and charter bus miles operated

(4) North Carolina bus miles operated

14. That prior to future filings requesting increases in express rates each carrier shall conduct appropriate tests to determine the actual percentage effect of the increase on express revenue and total test year revenue yield of the proposed express rates and shall submit such information as part of the Application.

15. That in all future rate proceedings the carriers shall select and file with the Commission all data based on the same test year with all adjustments to test year data being fully explained and documented by each carrier.

16. That in all future rate proceedings items of revenues and expenses which cannot be directly assigned by jurisdictional area shall be allocated consistently among the carriers unless circumstances merit otherwise.

ISSUED BY ORDER OF THE COMMISSION.

This 27th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1709, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Wayne Stewart, t/a Eastern Courier, Raleigh, North Carolina - Petition for Emergency and Temporary Operating Authority to Transport Commercial Papers, Cash Letters, Et Cetera | ) RECOMMENDED ORDER GRANTING CONTRACT CARRIER AUTHORITY |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 26, 1976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Applicant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27608

For the Protestants:

Thomas W. Steed, Jr., Allen, Steed & Pullen, P. A., Attorneys at Law, P. O. Box 2058, Raleigh, North Carolina 27602, For: Purolator Courier Corporation; James M. Kimzey, Kimzey, Mackie & Smith, Attorneys at Law, P. O. Box 150, Raleigh, North Carolina 27602, For: Financial Courier Corporation

PARTIN, HEARING EXAMINER: On December 22, 1975, Wayne Stewart, t/a Eastern Courier, 4030 Vesta Drive, Raleigh, North Carolina, filed a petition with the Commission for emergency and temporary authority to transport:

"Commercial papers, cash letters, documents, inter-office communications, audit and accounting media and

other business records, documents and supplies used in processing such media, and written instruments (except currency, coin, and bullion); under contract with First Citizens Bank & Trust Company; between the operations center of First Citizens Bank and Trust Company in Raleigh, North Carolina, on the one hand, and on the other, the branch offices of First Citizens Bank & Trust Company located on Highway 54 at the Research Triangle Park in Durham County, and in Wendell, Wake County."

In support of this petition, Eastern Courier filed a supporting statement by First Citizens Bank and Trust Company. First Citizens alleged that the bank's existing contract carrier of bank documents, Courier Express, would no longer provide service as of January 1, 1976, and that the bank had no alternatives but to find another carrier or to transport its own commodities.

On December 23, 1975, Purolator Courier Corporation, Lake Success, New York, filed a Protest and Motion for Intervention in the Petition for Emergency and Temporary Authority.

On December 29, 1975, the Commission issued an Order allowing Purolator's Protest and Motion for Intervention and denying Eastern Courier's Petition for Emergency and Temporary Authority.

On January 7, 1976, Wayne Stewart, t/a Eastern Courier, filed an Application for authority to transport as a contract carrier in North Carolina intrastate commerce as follows:

"1. To amend contract carrier permit number P-264 by adding Northern Telecom, Incorporated, Post Office Box 771, Butner, North Carolina 27509, as a contracting shipper.

2. To amend contract carrier permit number P-264 to authorize the following service: transportation of Group 1, General Commodities, under contract with Burroughs Wellcome Co., 330 Cornwallis Road, Research Triangle Park, North Carolina 27709, between Research Triangle Park, North Carolina, and Greenville, North Carolina.

3. To amend contract carrier permit number P-264 to authorize the following service: transportation of commercial papers, cash letters, documents, inter-office communications, audit and accounting media and other business records, documents and supplies used in processing such media, and written instruments (except currency, coin, and bullion), between banking institutions and other points incidental to such bank

transportation between points and places in Wake, Durham and Orange counties." [Applicant entered into a contract with First Citizens Bank and Trust Company, to be more fully discussed below.]

On January 14, 1976, the Commission issued its Calendar of Hearings which set forth the Application of Wayne Stewart, t/a Eastern Courier, the authority sought, and the time and place of hearing.

Thereafter, on February 10, 1976, Financial Courier Corporation, Winston-Salem, North Carolina, filed Protest and Motion for Intervention in the Application. The Commission, by Order of February 17, 1976, allowed the Protest and Motion for Intervention.

On February 23, 1976, Purolator Courier Corporation of New Hyde Park, New York, filed its Protest and Motion for Intervention in the Application of Eastern Courier. On February 24, 1976, the Applicant, Eastern Courier, filed a Motion to Dismiss the protest of Purolator Corporation on the ground that the protest was not timely filed in accordance with the Commission's Rules and Regulations and G. S. 62-262(d). The Hearing Examiner, over the objection of the Applicant, allowed the Protest and Motion of Purolator at the opening of the hearing in this matter.

The Application of Eastern Courier came on for hearing as scheduled on February 26, 1976, in the Commission Hearing Room in Raleigh. The Applicant and the Intervenors were present and represented by counsel. The Applicant, Wayne Stewart, t/a Eastern Courier, offered the testimony of Ronald Thomas Morris, Supervisor of Office Services, Burroughs Wellcome Company; Lawrence Wayne Stewart, of Eastern Courier, the Applicant; Joe Dean, Vice President of Operations, First Citizens Bank and Trust Company; and William Johnson, Product Manager of Wachovia Services, Winston-Salem, North Carolina.

The Protestant-Intervenor, Financial Courier Corporation, presented the testimony of Wilton Brooks Newborn, President and Treasurer of Financial Courier, Winston-Salem, North Carolina. The Protestant Purolator Courier Corporation offered no evidence.

The Applicant, Eastern Courier, at the opening of the hearing, amended his Application by deleting Paragraph 1, which set forth the proposed service to Northern Telecom, Incorporated. This amendment was allowed. The Applicant offered into evidence the written contracts with Burroughs Wellcome Company and First Citizens Bank and Trust Company.

Based on the record in this proceeding and the testimony and exhibits presented at the hearing, the Hearing Examiner makes the following:

FINDINGS OF FACT

(1) The Applicant, Wayne Stewart, t/a Eastern Courier, 4030 Vesta Drive, Raleigh, North Carolina, holds contract carrier authority from this Commission under Permit No. 264, which was issued in 1974. This permit does not authorize Eastern Courier to transport commodities for Burroughs Wellcome Company or First Citizens Bank and Trust Company.

(2) Eastern Courier has entered into a contract with Burroughs Wellcome Company, dated January 29, 1976, whereby Eastern Courier will transport certain commodities from the Burroughs Wellcome Company, Research Triangle Park, North Carolina, to the Greenville, North Carolina, office of Burroughs Wellcome, and return, Monday through Friday.

(3) Burroughs Wellcome has a need for the specific type of service offered by Eastern Courier which is not otherwise available by existing means of transportation.

(4) Eastern Courier, since February 9, 1976, has been transporting commodities for compensation for Burroughs Wellcome between the Research Triangle Park and Greenville, North Carolina, without first obtaining appropriate authority from this Commission to do so.

(5) Eastern Courier has entered into a contract with First Citizens Bank and Trust Company, dated January 1, 1976, whereby Eastern Courier will transport certain commodities, mostly bank documents, from the Operations Center of First Citizens Bank in Raleigh, North Carolina, to its branch offices in Wendell, North Carolina, and at Highway 54, Research Triangle Park, Durham County, North Carolina.

(6) First Citizens Bank has a need for the service proposed by Eastern Courier which is not otherwise available by existing means of transportation.

(7) Since on or about January 2, 1976, Eastern Courier has been transporting commodities for First Citizens Bank from Raleigh to Wendell and to the Research Triangle Park for compensation without first obtaining authority from this Commission to do so.

(8) Eastern Courier is fit to perform the services proposed as a contract carrier to Burroughs Wellcome and to First Citizens Bank.

(9) Eastern Courier is willing and able to perform the services proposed as a contract carrier to Burroughs Wellcome and to First Citizens Bank.

(10) The proposed operations of the Applicant with Burroughs Wellcome Company and with First Citizens Bank and Trust Company, as set forth in the contract with each company, conform with the definition of a contract carrier.

EVIDENCE AND CONCLUSIONS OF FINDING OF FACT NO. 1

This finding is based upon the Application, the testimony of the Applicant, and the files of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

This finding is based upon the testimony of Witnesses Morris and Stewart and Applicant's Exhibit No. 1. The contract shows that it was executed on January 29, 1976, between the Applicant and Burroughs Wellcome and that the contract was subject to the approval of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Witness Morris testified on the need of Burroughs Wellcome for the Applicant's services. The company has a number of commodities that must be moved daily between its offices in Research Triangle Park (RTP) and Greenville, North Carolina. These commodities include computer printouts and other documents. This daily movement must meet certain time schedules; the transportation must leave RTP by 8:00 a.m., arrive in Greenville by 10:15 a.m., and return to RTP by 1:00 p.m. Common carriers are unable to meet this daily schedule.

Mr. Morris testified that neither of the Intervenors has solicited the business of Burroughs Wellcome.

The Hearing Examiner finds and concludes that Burroughs Wellcome has a need for the Applicant's service which is not otherwise available by existing means of transportation.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence is uncontradicted that the Applicant has been providing transportation services for Burroughs on a so-called "trial basis" since February 9, 1976. Mr. Morris testified that there has been "no charge" for this service. Mr. Morris admitted on cross-examination that the trial period was in contemplation of entering into the contract with Eastern Courier and that the trial period is "tied in ostensibly to this contract."

Mr. Stewart, the Applicant, testified that he was not charging Burroughs for the so-called "trial service." On the cross-examination of Mr. Stewart, the following exchange occurred:

Q (Mr. Kimzey): So you would not be carrying those free then by any stretch of the imagination unless you were going to get those two contracts from him; isn't that correct?

A: That is correct.

The Hearing Examiner finds and concludes that since February 9, 1976, the Applicant has been transporting commodities for Burroughs between its offices in the RTP and in Greenville for compensation without first obtaining authority from this Commission to do so. These operations of the Applicant, therefore, are in violation of G.S. 62-262(a) and Commission Rule R2-21. The Rule provides in pertinent part:

"No carrier shall engage in transportation in intrastate commerce for compensation in North Carolina until and unless such carrier shall have applied to and obtained from the North Carolina Utilities Commission appropriate authority to so operate."

G. S. 62-3 defines a "contract carrier by motor vehicle" as a person who engages in transportation in intrastate commerce for compensation under an individual contract with another person.

The Hearing Examiner finds and concludes that the transportation services rendered by Applicant to Burroughs is transportation "for compensation" within the meaning of the statutes and Rule R2-21. Although the evidence is that no charge is made for such transportation, there is evidence that the Applicant and Burroughs have entered into the contract dated January 29, 1976. Compensation for motor carrier service need not be in the form of money. Village of Brookfield v. Goldblatt Bros., 33 PUR (NS) 82. The execution of the contract between Applicant and Burroughs, whereby Burroughs obligated itself to use the services of Applicant and Applicant obligated itself to provide transportation services to Burroughs, is consideration, and is compensation within the meaning of the statutes and the Commission's Rules.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

This finding is based upon the testimony of Witnesses Stewart and Dean and Applicant's Exhibit No. 5, which is a copy of the contract.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Witness Dean testified on the need of First Citizens Bank for the Applicant to transport certain commodities from the bank's operations center in Raleigh to its branch offices in Wendell and in the Research Triangle Park. First Citizens' previous carrier, Courier Express, went out of business at the end of 1975. The bank consequently required a new carrier to transport the bank's documents and papers from Raleigh to Wendell and the Research Triangle Park on a daily basis between the hours of 8:00 a.m. and 7:30 p.m. The bank needs to move these commodities in an expeditious fashion to meet deadlines of the Federal Reserve Bank and First Citizens' computer operations. No common carrier is able to meet these schedules. The employees of Applicant will enter

the premises of the bank after business hours and must be bonded. The commodities to be transported are valuable to the bank, and the bank requires Applicant to maintain cargo insurance. The Applicant also maintains radio equipment in his trucks, which the bank finds helpful in meeting its schedules.

Mr. Dean testified that Financial Courier solicited his business, but that Purolator did not.

Mr. Dean also testified that he does not see a need for the Applicant's services in other parts of Durham County or in Orange County.

The Hearing Examiner finds and concludes that First Citizens Bank has a need for the Applicant's service, as set forth in the contract, that is not otherwise available by existing means of transportation.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The Applicant has been providing transportation service for First Citizens between the bank's Raleigh office and its branches in Wendell and the Research Triangle Park on a so-called "trial basis" since on or about January 2, 1976. The evidence is that there has been "no charge" for this service. Mr. Stewart stated that he was carrying the commodities for First Citizens to Wendell and to the Research Triangle Park without charge in order to "get the contract" with First Citizens. The following exchange took place during the cross-examination of Mr. Stewart:

Q(Mr. Kimzey): So you would not be carrying those free then by any stretch of the imagination unless you were going to get those two contracts from him; isn't that correct?

A: That is correct.

The evidence is, of course, that the Applicant "got the contract" with First Citizens. Under this contract, First Citizens has obligated itself to use the transportation services of the Applicant for compensation of $308 per month, and the Applicant has obligated himself to transport the commodities of the bank. The performance of this contract, which is to become effective upon Commission approval, is compensation within the meaning of the Public Utilities Law of this State. The promise of First Citizens to use the Applicant's services pursuant to the contract is consideration and is, therefore, compensation to Eastern Courier for its act of transporting the commodities of the bank during the so-called "trial period."

The evidence is that the Applicant has not received actual payment for his services during the so-called "trial period." Compensation for motor carrier service, however, does not have to be in the form of money. Village of

Brookfield v. Goldblatt Bros., 33 PUR (NS) 82. The Village of Brookfield case is instructive on this issue. Goldblatt Brothers, a Chicago department store, operated a bus service to its downtown store for prospective suburban customers. No charge was made for riding the bus. The store admitted, however, that it expected the riders to become customers of the store. The Illinois Commerce Commission held that the carrier service of the department store was for compensation and stated:

> "In lieu of a cash fare, the usual compensation for a carrier, Goldblatt desires that its passengers visit its store; that they shall be its actual or prospective customers. There is as much a contract of transportation present in the operation as would be present if a cash fare were charged. Under the fare arrangement, the service is offered for the monetary charge; under the Goldblatt arrangement the service is offered for the promise, implied in fact, of the passenger that he is, or that he has been, Goldblatt's actual or prospective customer. Such promise is sufficient consideration to support the contract."

The Hearing Examiner finds and concludes that the Applicant has been transporting for First Citizens for compensation, without first obtaining authority from the Commission, in violation of N.C.G.S. 62-262(a) and the Rules of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Hearing Examiner finds and concludes that the Applicant has been transporting commodities for compensation for First Citizens Bank and for Burroughs Wellcome without first obtaining authority from this Commission to do so. This violates G. S. 62-262(a) and Commission Rule R2-21.

The Intervenors contend that the act of the Applicant in transporting for compensation the commodities of Burroughs Wellcome and First Citizens during the "trial period" renders him unfit to perform the services of a contract carrier, and that his Application should be denied.

The Hearing Examiner finds and concludes that Eastern Courier should be granted the contract authority set out in Appendix A of this Order. He does so for the following reasons: The Applicant has previously been granted a Permit by this Commission to operate as a contract carrier; this Permit was granted upon a Commission finding that the Applicant was fit. The Applicant has operated under his existing authority without complaint to this Commission. There is no evidence or suggestion that the Applicant has engaged in persistent violations of the Commission's Rules over a long period of time. The violation herein does not involve a safety violation. There exists a need for the services that the Applicant proposes to render Burroughs Wellcome and First Citizens Bank.

Furthermore, the Applicant sought legal advice to determine if he could transport for Burroughs Wellcome and First Citizens Bank without charge pending approval of his Application by the Commission. He was advised by his attorney that he could do so. At the time that his attorney gave this advice, there had been no prior adjudication by this Commission that the transportation contemplated by the Applicant was a violation of the Commission's Rules or of the General Statutes.

The Intervenors also contend that the Applicant has violated other Rules of the Commission, most notably Rule R2-16(b), which requires contract carriers to charge rates no lower than the rates approved for common carriers performing similar service. It appears that any violation of this Rule, or of other Rules, stems from the Applicant's act of transportation during the so-called trial period "without charge." Consequently, for the reasons stated above, the Hearing Examiner reaffirms his finding and conclusion that the Applicant is fit.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Hearing Examiner finds and concludes that the Applicant is willing and able to perform the services proposed in his Application. The Applicant is presently serving as a contract carrier; the inclusion of the proposed services for Burroughs Wellcome and First Citizens Bank will not require substantial changes in his operations. The Applicant employs four (4) full-time drivers and one (1) part-time driver. These drivers have had experience in the transportation of banking commodities. The Applicant has six (6) vehicles available for his operations, all of which are suitable for the proposed operations in this proceeding. The Applicant had total assets of $17,792 as of December 31, 1975. During 1975, Applicant had sales of $47,774 and net income of $15,451. The Applicant and his wife have personal assets which would be available for the business.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The proposed operations conform to the definition of a contract carrier within the meaning of Chapter 62 of the General Statutes. This finding is amply supported by the evidence.

FURTHER CONCLUSIONS

The Application of the Applicant, with respect to bank documents, requested authority in Wake, Durham, and Orange counties. The evidence of the Applicant, including the contract with First Citizens Bank, supports the authority granted in Paragraph (2) of Exhibit A, that is, from the operations center of First Citizens Bank in Raleigh to the bank's branch offices in Wendell, Wake County, North Carolina, and at Highway 54, Research Triangle Park, Durham

County, North Carolina. This Order will not grant the Applicant authority to serve Orange County.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Contract Carrier Permit No. P-264, heretofore issued to Wayne Stewart, t/a Eastern Courier, Raleigh, North Carolina, be, and the same is, hereby amended to include the authority more particularly described in Exhibit A attached hereto and made a part hereof.

2) 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 the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant upon request to the Accounting Division.

3) That the Applicant shall file with the Commission evidence of insurance, list of equipment, tariff of rates and charges, designation of process agent and otherwise comply with the Rules and Regulations of the Commission, to the extent he has not already done so, prior to commencing operations under the authority acquired herein.

4) That unless the Applicant complies with the requirements set forth in decretal Paragraph (3) above and begins operating, as herein authorized, within a period of thirty (30) days from the date of this Order, unless such time is extended in writing by the Commission upon written request, the operating authority acquired herein will cease and determine.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1709 SUB 1

Wayne Stewart, t/a
Eastern Courier
4030 Vesta Drive
Raleigh, North Carolina 27603

Contract Carrier Operating Authority

EXHIBIT A (1) Transportation of Group 1, General Commodities, between Research Triangle Park, N. C., and Greenville, N. C., under individual bilateral written contract with Burroughs

Wellcome Co., 330 Cornwallis Road, Research Triangle Park, N. C.

(2) Transportation of commercial papers, cash letters, documents, interoffice communications, auditing and accounting media and other business records, documents and supplies used in processing such media, and written instruments (except currency, coin and bullion) between the operations center of First Citizens Bank & Trust Company, 20 East Martin Street, Raleigh, N. C., on the one hand, and, on the other hand, the branch offices of First Citizens Bank and Trust Company located in Wendell, Wake County, N. C., and on Highway 54, Research Triangle Park, Durham County, N. C.

DOCKET NO. T-1724, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Garland Robertson Graham, Route 13, Box 698, Salisbury, North Carolina 28144 - Application for Authority to Transport Group 21, Mobile Homes and Modular Homes, Between Various Points and Places Within North Carolina ) FINAL ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Tuesday, June 22, 1976, at 9:00 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, J. Ward Purrington, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

John L. Holshouser, Jr.
Burke, Donaldson & Holshouser
Attorneys and Counsellors at Law
309 North Main Street
Salisbury, North Carolina 28144

For the Protestants:

Vaughan S. Winborne
Counsellor and Attorney at Law
1108 Capital Club Building

Raleigh, North Carolina 27601
Appearing for: Transit Homes, Inc.

Richard Hall
Hall's Mobile Homes, Inc.
Route 2, Salisbury, North Carolina
Appearing for Himself

Thomas S. Harrington
Harrington, Stultz & Maddrey
Attorneys and Counsellors at Law
P. O. Box 535, Eden, North Carolina
Appearing for: Morgan Drive Away, Inc.

For the Commission Staff:

Theodore C. Brown, Jr.
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter came on for hearing and was heard on Oral Argument Upon Appeal from the Recommended Order Denying Application dated May 7, 1976, by Hearing Examiner D. D. Coordes with Exceptions and Appeal having been duly filed by the Applicant, Garland Robertson Graham, on May 26, 1976.

By application filed with the Commission on October 23, 1974, Garland Robertson Graham, Route 13, Box 698, Salisbury, North Carolina 28144, seeks common carrier operating authority to engage in the transportation of Group 21, Mobile Homes and Modular Homes, as follows:

"(a) Between points and places within Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina.

"(b) From points and places within Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina, to points and places within 150 miles of said counties.

"(c) From points and places 150 miles from Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina, to points and places within Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina."

Notice of said application, together with a description of the authority sought, along with the time and place of the hearing, was published in the Commission's Calendar of Hearings issued October 28, 1974.

Protests to the application for authority herein sought were filed with the Commission, by Counsel, for and on behalf of Transit Homes, Inc., Greenville, South Carolina,

and Hall's Mobile Homes, Inc., Salisbury, North Carolina, on November 4, and 29, 1974, respectively, with same being allowed by the Commission's Orders in this Docket dated November 7 and December 2, 1974.

Upon the call of this matter for hearing on December 12, 1974, in the Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, Applicant was present and represented by Counsel. Protestants, Transit Homes, Inc., and Hall's Mobile Homes, Inc., were also present and represented by Counsel. Counsel for and on behalf of Morgan Drive Away, Inc., Elkhart, Indiana, was also present and produced a protest to said application and moved that same be allowed and that Morgan Drive Away, Inc., be made a party protestant to this matter, and upon good cause being shown, the Hearing Examiner allowed such protest.

The Applicant offered testimony as to his qualifications, business experience and financial ability to perform the transportation service under the operating authority herein sought. His testimony indicates that during the past seven (7) years he has been employed by Morgan Drive Away, Inc., Skyline Corporation, Harrisburg, North Carolina, and Homes by Fisher, Richfield, North Carolina, as a driver transporting mobile homes; that he is the owner of five (5) trucks suitable for the transportation of mobile homes together with two pilot cars; and that he presently owns or will acquire suitable office facilities from which to conduct the proposed operations. The Applicant further testified that in his opinion there exists a need for the service in the area within which he proposes to operate.

In addition, the Applicant offered the testimony of Mr. James Ray Hill, Mr. Oliver Walker, Mr. Alton Austin, Mr. Henry D. Walser, Mr. Dean Long, Mr. Lester B. Robbins, Jr., Paul Beck, Mr. Robert Nichols, Mr. Elbert Leon Chambers, Mr. William F. Hodge, Mr. Charles Henry Earnhardt and Mr. William Ralph Peeler.

Upon conclusion of testimony on behalf of the Applicant, the Applicant rested, and Protestants then moved to dismiss the proceeding for failure of Applicant to sustain the burden of proof and show a need for the operating authority herein sought. Upon denial of this motion by the Hearing Examiner, the Protestants then proceeded with their case.

Protestants presenting evidence at the December 1974 hearing were Morgan Drive Away, Inc., presenting Mr. Jack Kent; Transit Homes, Inc., presenting Mr. Jesse Donald Dobbins, and Hall's Mobile Homes, Inc., presenting Mr. Richard Hall. A Mr. Bill Peck also testified for the Protestants.

Donald Coordes, the Hearing Examiner, issued on February 24, 1975, a Recommended Order Denying the Application of Garland Robertson Graham. In March of 1975, Exceptions to the Recommended Order were filed by the Applicant with the

request for Oral Argument. The matter was heard in the Commission Hearing Room on April 16, 1975, and on April 22, 1975, the Commission remanded the matter to Salisbury, North Carolina, for a further hearing in order that the Applicant could present further evidence.

The matter came on for hearing in Salisbury, North Carolina, Rowan County Courthouse, on May 29, 1975, at which time the Applicant was present and represented by Counsel. Protestants Transit Homes, Inc., Morgan Drive Away, Inc., and Hall's Mobile Homes, Inc., were represented by Counsel.

The Applicant offered the testimony of Mr. Maynard Bill Knapp, Mr. David Miller, Mrs. Geraldine Shoof Leatherman, Mrs. Jean Stevens, Miss Joyce Benfield Mesimer and Mr. Steadman Ray Wyrick.

Upon the conclusion of the evidence by the Applicant, the Protestants joined in a motion to dismiss the application on the grounds that even with the additional evidence, the Applicant failed to carry the burden of proof. The Hearing Examiner denied Protestant's motion, and the Protestants presented evidence.

Protestants presented the following witnesses: Mr. Vernon Lee Flowers, Mr. Grayland Gulledge, Mr. John Lilburn Richardson and Mr. Richard Tomei, all of whom testified as to the availability of the Protestants' service.

Applicant had a rebuttal witness which he presented, Mr. Benjamin Bazil Surratt, Sr.

On May 7, 1976, Hearing Examiner Coordes issued his Recommended Order Denying the Application of the Applicant. Thereafter, on May 26, 1976, the Applicant filed Exceptions to the Recommended Order and requested Oral Argument. The Commission ordered that Oral Argument to the Exceptions be heard on June 16, 1976, at 9:00 A.M. Subsequently, the Commission continued the matter and the Oral Argument was set for June 22, 1976, at 9:00 A.M.

On June 22, 1976, the Applicant was present in the Commission's Hearing Room and Protestants were present with Counsel, except for Mr. Richard Hall, who appeared in his own behalf.

Upon a review of the entire record in this matter, a careful consideration of the able arguments of Counsel for the parties, and the records of the Commission, the Commission makes the following

## FINDINGS OF FACT

1. That the Applicant proposes to transport mobile homes and modular homes between points and places within Rowan County, North Carolina.

2. That Applicant is fit, willing and able to properly perform the proposed service.

3. That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

4. That Protestants, Transit Homes, Inc., Hall's Mobile Homes, Inc., and Morgan Drive Away, Inc., are now licensed by the Commission to transport mobile homes in the proposed area, but have not always been able to insure prompt and convenient service.

5. That the public convenience and necessity requires the proposed service in addition to the existing authorized transportation service.

6. That the proposed service will not unlawfully affect service to the public by other public utilities, including the Protestants.

Based on the above Findings of Fact, the Commission reaches the following

CONCLUSIONS

North Carolina General Statute G.S. 62-262(e)(1) requires that before an application for certificate can be granted, the Applicant shall show to the satisfaction of the Commission that public convenience and necessity require the proposed service in addition to existing authorized transportation.

The doctrine of convenience and necessity has been the subject of several judicial determinations. In those cases, the Court has held that "necessity means reasonably necessary and not absolutely imperative." Utilities Commission v. Railroad, 254 N.C. 73, 79, 118 S.E. 2d 21. "Any service or improvement which is desirable for the public welfare and highly important to the public convenience may be properly regarded as necessary." Utilities Commission vs. Carolina Coach Company, 260 N.C. 43, 52, 132 S.E. 2d 249.

Based upon the Findings of Fact found from the evidence in this docket, the Commission concludes that public convenience and necessity require the proposed service; that the Applicant is fit, willing and able to properly perform the proposed service; that the Applicant is solvent and financially able to furnish the service on a continuing basis; that the proposed service will not unlawfully affect service to the public by other public utilities; and that the application should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Exceptions filed on May 26, 1976, by the Applicant are hereby denied and the Recommended Order of Hearing Examiner Coordes dated May 7, 1976, is vacated.

2. That the application of Garland Robertson Graham for authority to engage in the transportation of mobile homes and modular homes as more particularly described in Exhibit B attached hereto and made a part hereof, be, and the same is hereby approved. The remaining portion of the application wherein Applicant sought authority to transport mobile homes and modular homes "between points and places within Stanly County, Davidson County, Iredell County and Davie County, North Carolina" and "from points and places within Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina, to points and places within 150 miles of said counties" and "from points and places 150 miles from Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina, to points and places within Rowan County, Stanly County, Davidson County, Iredell County and Davie County, North Carolina" is hereby denied.

3. That the Applicant file with the Commission evidence of the required insurance, list of equipment, tariff of rates and charges, designation of process agent, and otherwise comply with the rules and regulations of the Commission.

4. That Applicant shall maintain its books and records in such 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 the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant upon request to the Accounting Division.

5. That this Order shall constitute a certificate until a formal certificate shall have been issued to the Applicant authorizing the transportation set forth in Exhibit B.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1724 SUB 1

Garland Robertson Graham
Route 13, Box 698
Salisbury, North Carolina

Irregular Route Common Carrier

EXHIBIT B

The transportation of Group 24, mobile homes and modular homes between all points and places within Rowan County.

DOCKET NO. T-1724, SUB 1

SIMPSON AND PURRINGTON, COMMISSIONERS, DISSENTING: We believe that the record of both hearings fully supports the Recommended Order by Hearing Examiner Coordes. There was no showing that the authority granted herein is required for the public convenience and necessity in addition to existing authorized services. We would affirm the May 7, 1976, Recommended Order of Hearing Examiner Coordes.

Barbara A. Simpson, Commissioner
J. Ward Purrington, Commissioner

DOCKET NO. T-1077, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Purolator Courier Corp., 2 Nevada Drive, Lake Success, New York 11040 - Application for Common Carrier Authority to Transport Group 24, Articles, Packages and All Commodities Moving in Courier Service, Between All Points and Places in North Carolina ) FINAL ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on September 9, 1976, at 10:00 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, J. Ward Purrington, W. Lester Teal, Jr., Barbara A. Simpson and W. Scott Harvey

APPEARANCES:

For the Applicant:

John V. Hunter, III, and V. Lane Wharton, Jr., Hunter and Wharton, Attorneys at Law, Post Office Box 448, Raleigh, North Carolina 27602

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, Post Office Box 2246, Raleigh, North Carolina 27602
For: Greyhound Lines, Inc.
Observer Transportation Company
Mid-State Delivery Service, Inc.
Citizen Express, Inc.

David L. Ward, Jr., Ward and Smith, Attorneys at Law, 310 Broad Street, New Bern, North Carolina 28560
For: Seashore Transportation Company

James E. Tucker, Joyner and Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602
For: Continental Southeastern Lines
Carolina Coach Company

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: Purolator Courier Corp. (hereinafter called Applicant or Purolator) filed with the Clerk of the North Carolina Utilities Commission on September 12, 1974, an application to operate as a Common Carrier over irregular routes with a defined territory without respect to particular highways and to transport Group 21 Commodities. The commodity and territory description contained in the application is as follows:

"Commodity and Territory Description

"Articles, packages and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina (except, if the simultaneously filed petition for relief from Rule R2-27 is granted:

"1. Commercial papers, documents, written instruments and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

"2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts and other bank stationery;

"3. Whole human blood and blood derivatives;

"4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith.)

"Definition:

"Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

"Restrictions:

"(1) No service will be rendered in the transportation of any package or article weighing more than fifty pounds.

"(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day."

The Applicant at present holds a North Carolina Interstate Common Carrier Certificate No. MC-111729 and subs and North Carolina Contract Carrier Permit No. P-131; Interstate Contract Carrier No. MC-112750 and subs thereunder.

At the same time Applicant filed this application, Applicant also filed a Petition moving that N.C.U.C. Rule R2-27 concerning the "dual operations" be modified to allow the Applicant to transport commodities as a common carrier and at the same time transport in the same vehicle as a contract carrier the following commodities:

"1. Commercial papers, documents, written instruments and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

"2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts and other bank stationery;

"3. Whole human blood and blood derivatives;

"4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith."

The Applicant stated in the Petition that if it could obtain the appropriate relief from the provisions of N.C.U.C. Rule R2-27, the four categories described in its application would be excluded from the common carrier authority and would continue under the contract carrier authority granted to the Applicant under Contract Carrier Permit No. P-131.

This Commission by Order dated November 22, 1974, granted the relief requested by the Petition of the Applicant concerning N.C.U.C. Rule R2-27.

Purolator Courier Corp. has and has had for some years contract carrier authority in North Carolina as is evidenced by Permit No. P-|3| issued by this Commission, which authority has been modified from time to time and as of the filing of the common carrier application herein is set forth in Docket No. T-|077, Sub || as follows:

"The transportation of:

"(|) Commercial papers, documents, written instruments and inter-office communications, except coin, currency and negotiable securities, ordinarily used by banks and banking institutions and branches thereof, between all points and places within the State of North Carolina, pursuant to bilateral contracts with banks and banking institutions.

"(2) Checks, business papers, records and audit and accounting media of all kinds (except plant removals), bank checks, checkbooks, drafts and other bank stationery, pursuant to individual bilateral contracts or agreements, between all points and places within the State of North Carolina.

"(3) Whole human blood and blood derivatives, over irregular routes between all points in North Carolina.

"(4) Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith, over irregular routes between all points in North Carolina.

"NOTE: The authorized transportation of exposed and processed film and prints does not include the transportation of motion picture film used primarily for commercial theaters and television exhibition.

"(5) Group 2|, critical replacement parts (excluding automobile parts) under bilateral contracts with Xerox Corporation and Terminal Communications, Inc., between all points and places within the State of North Carolina.

"RESTRICTIONS: No one shipment to exceed 50 pounds, nor more than |00 pounds in the aggregate from any one consignor to any one consignee in any one day."

After the filing of the application by Purolator Courier Corp. in this docket, the following carriers, each having authority issued by the North Carolina Utilities Commission as indicated by Certificate cited, filed protests and interventions, which interventions were allowed by this Commission:

Greyhound Lines, Inc., 1400 West Third Street, Cleveland, Ohio 44113 - Certificate No. B-7

Financial Courier Corporation, 134 North Spruce Street, Winston-Salem, North Carolina - Certificate No. P-215

Seashore Transportation Co., 812 Broad Street, New Bern, North Carolina 28560 - Certificate No. B-79

Continental Southeastern Lines, Inc., P. O. Box 2387, Charlotte, North Carolina 28201 - Certificate No. B-69

Carolina Coach Company, 1201 South Blount Street, Raleigh, North Carolina - Certificate No. B-15

Mid-State Delivery Service, Inc., 6114 Eugene Court, Greensboro, North Carolina 27401 - Certificate No. C-536

Observer Transportation Company, 1600 West Independence Boulevard, Charlotte, North Carolina 28201 - Certificate No. C-289

Citizen Express, Inc., 38 North French Broad Avenue, Asheville, North Carolina 28801 - Certificate No. C-1043

Financial Courier Corporation filed on November 7, 1974, a Petition in support of the relief from Rule R2-27 that Purolator Courier Corp. sought.

The original hearing in this docket was scheduled for December 6, 1974, but the Applicant on November 5, 1974, moved that the hearing be continued and this Commission continued the case until April 8, 1975, at 10:00 A.M. in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, by Order issued on November 25, 1974.

Purolator Courier Corp., the Applicant herein, filed a Motion to Amend its Application to exclude certain commodities on February 12, 1975. The Motion was allowed by Order of this Commission issued on March 3, 1975, and the Order of March 3, 1975, in this docket was further clarified by Order issued March 6, 1975. The Order included restrictions set forth in Purolator's original application which were not dealt with in the Motion to Amend, and the two Orders setting the authority being requested for irregular route common carrier authority to transport Group 21 commodities are as follows:

"Commodity and Territory Description

"Articles, packages and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina, except for the following commodities:

"1. Commercial papers, documents, written documents and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

"2. Checks, business papers, records and audit and accounting media and all kinds, bank checks, checkbooks, drafts and other bank stationery;

"3. Whole human blood and blood derivatives;

"4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith.

"Definition:

"Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

"Restrictions:

"(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

"(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day."

When this matter was called for hearing, the Applicant and Protestants and Commission Staff were present and represented by their respective lawyers; however, James H. Kimzey of Raleigh, North Carolina, who had appeared on behalf of Financial Courier Corporation did not make an appearance at the hearing.

North Carolina General Statute 62-262(e) reads as follows:

"(e) If the application is for a certificate, the burden of proof shall be upon the applicant to show to the satisfaction of the Commission:

"(1) That public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

"(2) That the applicant is fit, willing and able to properly perform the proposed service, and

"(3) That the applicant is solvent and financially able to furnish adequate service on a continuing basis."

The Applicant in its attempt to carry the burden of proof as set out in this statute presented sixteen (16) witnesses.

The Applicant presented Everett Johnson from the Cape Fear Memorial Hospital in Wilmington, North Carolina, who testified that he shipped to other area hospitals and at present is using U.P.S., bus lines, various couriers' service, the Yellow Cab and some air transportation service. He further stated that he was satisfied with the bus line service; however, he felt inconvenienced in the necessity of getting the items to the bus terminals.

Applicant also presented John Wilson of Triangle Telecasters in Durham, North Carolina, a company that furnishes video tape and films to TV stations and distributes parts to various repair shops in the State of North Carolina. Wilson testified that he is presently using U.P.S., bus lines, parcel post, REA and some air delivery service. He testified that he is generally satisfied with the present service, but, of course, as any other businessman, he is looking for a cheaper means of delivery.

Roy D. Hallman, Supervisor of General Electric Company - Medical Systems Division, Charlotte, North Carolina, testified that he shipped X-ray equipment and parts to various field representatives and that he used U.P.S., the bus, parcel post and some air service for his shipping. He further testified that he was satisfied with U.P.S. door-to-door delivery and also with parcel post. He was critical of the slowness and the lag of these shippers.

Sam D. Roane, Jr., of Roane-Barker, Inc., Raleigh, North Carolina, supplies medical equipment and supplies to hospitals and clinics and ships usually by U.P.S., bus, parcel post, Standard Trucking Company and Overnite Transportation Company. Mr. Roane testified that the motor freight shippers are satisfactory and that the bus shippers are satisfactory on critical-time shipments. He felt that there were delays and breakage with the motor freight and that the bus was a bit inconvenient.

Beeler Eskridge of Electronics Calculators, Inc., Raleigh, North Carolina, ships calculating machines and electronic calculating supplies to various branch offices and dealers in North Carolina and uses U.P.S. and bus and motor freight lines in their shipping. Mr. Eskridge testified that U.P.S. received 90% to 95% of his business and he felt that they were very satisfactory. He also testified that the bus lines provided satisfactory service; however, he felt that the motor freight lines were slow.

William White of Greer Laboratories in Lenoir, North Carolina, testified that he ships vaccine and IV fluids to hospitals and doctors and that he uses U.P.S., the bus lines and parcel post. He further testified that the current services are satisfactory except for the occasional damage and there was a lack of refrigeration for certain items that he shipped.

Henry Allen Miller of Bausch and Lomb, Incorporated, of Raleigh, North Carolina, ships optometric products to various doctors at branch offices and currently uses the bus, parcel post and the Applicant Company in in-house delivery in the Raleigh area. Mr. Miller testified that the bus services are fairly satisfactory but inconvenient, and he felt the mail service was slow and unpredictable.

Charlie Burns Higgins, Jr., of Independent Labs, Inc., Greensboro, North Carolina, testified that his company ships soil, core and rock samples from job sites to the company and is presently using U.P.S. and the bus lines. Mr. Higgins further testified that his present needs are largely being satisfied by the bus lines and U.P.S. Mr. Higgins was critical of small town bus stations being closed at night and thereby creating an inconvenience for the shipper.

John L. Allen, Jr., Allen Science Research, Inc., Charlotte, North Carolina, testified for the Applicant that he shipped automation and control systems to various hospitals and doctors' offices and that he used U.P.S., bus lines, and his own personal vehicles in satisfying his shipper needs. Mr. Allen testified that U.P.S. was satisfactory for a majority of his shipments, but for a temperature control item, he was out of luck and used his own personal vehicles.

Robert G. Robinson of Robertson Optical Laboratories, Charlotte, North Carolina, ships optical products to various doctors and is currently using U.P.S., bus lines, parcel post and his own delivery vehicles for deliveries in Charlotte. Mr. Robinson testified that U.P.S. and the bus service were generally satisfactory for his needs; however, he felt that there were some delivery failures with the postal service and that bus scheduling could be improved.

Robert L. Ott of McCallum Wholesale Florist, Raleigh, North Carolina, ships gifts and flowers to various retail florists and gift shops and is currently using U.P.S., bus lines, Observer Transportation Company and some shipping by motor freight. Mr. Ott testified that he was satisfied with the bus service but was critical of the motor freight delays and he had experienced some loss of shipments with Observer Transportation Company.

James A. Rayburn of Guilford Laboratories, Inc., Greensboro, North Carolina, ships testing and chemical analysis materials from municipalities and industrial waste treatment plants to his labs by means of U.P.S., bus lines and personal vehicles. Mr. Rayburn was generally satisfied with present services; however, he felt that there was some restriction to serve remote areas.

William B. Saltsgaver of ICN Pharmaceuticals, Raleigh, North Carolina, ships drugs, photo supplies and surgical goods to druggists and currently uses U.P.S., bus lines, parcel post, Mid-State Delivery Service, Inc., and Harper

Trucking Company, Inc. Mr. Saltsgaver testified that he was generally satisfied with his present service.

Paul R. Sparks of Granite Diagnostics, Inc., Burlington, North Carolina, ships animal blood products and repaired and manufactured microbiological media to various customer labs by means of U.P.S., bus lines, and parcel post. Mr. Sparks testified that he was generally satisfied with the present service.

Walter Barker of Smith Hardware, Goldsboro, North Carolina, ships hardware and farm equipment to various farm equipment dealers and hardware stores by means of U.P.S., bus lines, parcel post, Overnite Transportation Company, and his own delivery trucks. Mr. Barker testified that the bus lines and U.P.S. were very good carriers and he was satisfied with their service.

John G. Sloan of Southeastern Radio Supply Company, Raleigh, North Carolina, ships electronic, TV, and stereo equipment to other company stores and retail stores by means of U.P.S., bus lines, parcel post, Observer, Mid-State, and Overnite Transportation Company. Mr. Sloan was very satisfied with present service but felt that in some small towns there was no bus service or bus station.

It is significant to point out that no witness testified that he had filed any complaints concerning service of shippers with the North Carolina Utilities Commission.

Each witness for the Applicant stated that his company shipped to and from various defined areas of the State. Most represented companies have headquarters in the central portion of the State. Of the 16, 6 were located in Raleigh, 3 in Charlotte, 2 in Greensboro, 1 in Durham, and 1 in Burlington. The remaining 3 were located in Wilmington, Lenoir and Goldsboro.

For the Protestants, Douglas H. Pearson, Executive Vice President and General Manager of Citizen Express, Inc., testified that Citizen provided 7-day, door-to-door overnight service to all points within its authorized territory. He further testified that he had interchange agreements in effect with Mid-State Delivery and Observer Transportation Company to enable the transportation to and from most areas of the State. Mr. Pearson further testified that 32.8% general freight revenue would be subject to diversion upon granting of the authority sought by the Applicant and that the diversion would result in an operating ratio for the first quarter of 1975 of 141.7% or 27.3% higher than the actual ratio for that period.

Fred H. Mock, District Manager for Greyhound, testified that Greyhound maintained independent or union terminals in Fayetteville, Charlotte, Winston-Salem and Greensboro in addition to other points where independent contractors handled ticket and express packages. He further testified

that the annual traffic subject to diversion would be $|75,552.00 if the application of the Applicant is approved. He further testified that the loss of the express revenue subject to diversion would necessitate an increase in passenger fares. He also testified that the handling of package express as an incident to the transportation of passengers enabled maintenance of passenger rates at relatively low levels and that there was independent pickup and delivery service within the municipal zones of Fayetteville, Greensboro, Hendersonville, Wilmington, Raleigh, Winston-Salem and other sites for users of bus package express service.

Donald Myers of Observer Transportation Company, Manager of the Raleigh Office, testified that Observer has a terminal in Charlotte and a small terminal in Raleigh and that door-to-door service was provided on all routes with either drop or signature delivery. Mr. Myers testified that revenue of $58,3|8 would have been subject to diversion during the last 7 months of |974 if Purolator had been operating under the authority it seeks in the application. The effect of such diversion would have been to increase Observer's operating ratio from 98.66% to |09.5%.

A. H. Jones, Jr., of Mid-State Delivery Service testified that on an annual basis the total revenue subject to diversion would be in excess of $|22,000 if Purolator's application is granted. As Mid-State's total revenues in |974 were $790,565.|2, the effect of the diversion would be to necessitate substantial increases in Mid-State's rates. Mr. Jones testified that Mid-State provides next-day delivery with door-to-door transportation, both drop and signature delivery within the scope of its authority.

Aaron Cruise, Vice President in Charge of Traffic, testified for Carolina Coach Company that from |972 until |974 there was a general decline in package express revenue experienced by his company. He stated that 96.64% of packages are 50 pounds or less and that there would be a diversion of this traffic if the application of the Applicant is allowed. He stated further that his company does rely on package express revenues to support the overall bus operation. For |974, he testified that passenger revenue per mile was $.96 and expense was $.96 per mile and that to have a profit, express package revenue had to be added in and if his company had to live from passenger revenue only, the operating ratio for the period would have been |53%.

Mr. B. C. O'Bryan, Traffic Manager of Seashore Transportation, testified that it was without question that Seashore would lose revenue if the application of the Applicant is granted. The revenue on express packages for Seashore in |974 was $235,634 and was projected for |975 to be $25|,|63. If the application is granted the diversion of revenue would result in a loss of $|60,367 and if Seashore only loses half of its revenue from shipping of 50-pound or

under packages, that would be a loss of $80,183 for the projected period. For the intrastate hauling the loss would be $162,100; the total projected intrastate revenue loss on the 50-pound or less express packages would be approximately $123,569 and if only half of the 50-pound or under package revenue were lost, the figure would be $61,784. This would cause an increase of the operating ratio to 108% and on intrastate express the ratio would be 106%. Mr. O'Bryan projected that the operating ratio would be 102% if projected on a 50% loss of the express revenue. Mr. O'Bryan stated that he based his projections on past experience of diversion caused by U.P.S. coming into the market on 50-pound or less package shipping and delivery service.

This Commission issued on June 30, 1976, a Recommended Order Denying the Application of Purolator Courier Corp. On July 13, 1976, the Applicant filed a Motion for Extension of Time Within Which to File Exceptions to the Recommended Order Denying the Application and the Commission on July 14, 1976, extended the time for filing Exceptions to July 26, 1976. On July 26, 1976, Applicant filed Exceptions to the Recommended Order Denying the Application and asking for Oral Argument upon the Exceptions.

On August 4, 1976, this Commission set September 1, 1976, as the date for argument on the Exceptions filed by the Applicant. Subsequently, the Oral Argument was continued to September 9, 1976, at 10:00 A.M. in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina.

On September 9, 1976, the Applicant appeared for Oral Argument with counsel and counsel for the Protestants also appeared.

After the Oral Argument and before any order had been issued by this Commission, the Applicant filed a Petition on September 23, 1976, requesting the Commission to issue temporary or emergency authority for Purolator Courier Corp. to transport as an irregular route common carrier light express between all points in the State of North Carolina. On October 4, 1976, the Commission issued an Order Denying the Petition for Emergency or Temporary Authority.

Based upon the information contained in the verified application in this docket, the testimony of all witnesses, their respective exhibits, the Oral Argument, and judicial notice of other cited and specific dockets, the Commission makes the following

FINDINGS OF FACT

1. That Purolator Courier Corp., Applicant, filed an application with this Commission on September 12, 1974. The Applicant was seeking authority as defined hereinafter:

"Commodity and Territory Description

"Articles, packages and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina (except, if the simultaneously filed petition for relief from Rule R2-27 is granted:

"1. Commercial papers, documents, written instruments and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

"2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts and other bank stationery;

"3. Whole human blood and blood derivatives;

"4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith.)

"Definition:

"Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

"Restrictions:

"(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

"(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day."

The Applicant proposed to utilize in its common carrier operation the same equipment which it then utilized in the contract carrier operations granted to it and made reference to the equipment list on file with the Commission together with the latest financial statement of Purolator Courier Corp. on file with the Commission.

2. At the same time and with the said application, Purolator Courier Corp. filed a petition to have N.C.U.C. Rule R2-27 dealing with "dual operations" modified to allow contract carriage commodities and common carriage commodities to be transported in the same vehicle at the same time. The Applicant indicated in that petition that, if it could obtain appropriate relief from the provisions of N.C.U.C. Rule R2-27, the four categories described in its application would be excluded from the common carrier authority and would continue under the contract carrier authority granted to Applicant as is evidenced under Contract Carrier Permit No. P-131.

By Order dated November 22, 1974, the relief requested by the Petition of Applicant concerning N.C.U.C. Rule R2-27 was granted.

3. That Purolator Courier Corp. has and has had for some years contract carrier authority in North Carolina as evidenced by Permit No. P-13, which authority as modified from time to time and as of the filing of the common carrier application was set forth in Docket No. T-1077, Sub 11, as follows:

"The transportation of:

"(1) Commercial papers, documents, written instruments and inter-office communications, except coin, currency and negotiable securities, ordinarily used by banks and banking institutions, between banks and banking institutions and branches thereof, between all points and places within the State of North Carolina, pursuant to bilateral contracts with banks and banking institutions.

"(2) Checks, business papers, records and audit and accounting media of all kinds (except plant removals), bank checks, checkbooks, drafts and other bank stationery, pursuant to individual bilateral contracts or agreements, between all points and places within the State of North Carolina.

"(3) Whole human blood and blood derivatives, over irregular routes between all points in North Carolina.

"(4) Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith, over irregular routes between all points in North Carolina.

"NOTE: The authorized transportation of exposed and processed film and prints does not include the transportation of motion picture film used primarily for commercial theaters and television exhibition.

"(5) Group 21, critical replacement parts (excluding automobile parts) under bilateral contracts with Xerox Corporation and Terminal Communications, Inc., between all points and places within the State of North Carolina.

"RESTRICTIONS: No one shipment to exceed 50 pounds, nor more than 100 pounds in the aggregate from any one consignor to any one consignee in any one day."

4. That following the filing of the application by Purolator Courier Corp. for the common carrier authority as specified above, the following carriers, each having

authority issued by the North Carolina Utilities Commission as indicated, filed protests and interventions, which interventions were allowed:

Greyhound Lines, Inc., 1400 West Third Street, Cleveland, Ohio 44113 - Certificate No. B-7

Financial Courier Corporation, 134 North Spruce Street, Winston-Salem, North Carolina - Certificate No. P-215

Seashore Transportation Co., 812 Broad Street, New Bern, North Carolina 28560 - Certificate No. B-79

Continental Southeastern Lines, Inc., Post Office Box 2387, Charlotte, North Carolina 28201 - Certificate No. B-69

Carolina Coach Company, 1201 South Blount Street, Raleigh, North Carolina - Certificate No. B-15

Mid-State Delivery Service, Inc., 614 Eugene Court, Greensboro, North Carolina 27401 - Certificate No. C-536

Observer Transportation Company, 1600 West Independence Boulevard, Charlotte, North Carolina 28201 - Certificate No. C-289

Citizen Express, Inc., 38 North French Broad Avenue, Asheville, North Carolina 28801 - Certificate No. C-1043

5. That on February 12, 1975, Purolator Courier Corp. filed a motion to amend its application to exclude certain commodities, which application was allowed by Order of March 6, 1975, which Order also included restrictions set forth in Purolator's original application which were not dealt with in the motion to amend, the said two Orders setting the authority being requested as being irregular route common carrier authority to transport Group 21 commodities as follows:

"Commodity and Territory Description

"Articles, packages and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina, except for the following commodities:

"1. Commercial papers, documents, written documents and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

"2. Checks, business papers, records and audit and accounting media and all kinds, bank checks, checkbooks, drafts and other bank stationery;

"3. Whole human blood and blood derivatives;

"4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith.

"Definition:

"Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

"Restrictions:

"(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

"(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day."

6. That the Applicant presented 16 shipper witnesses and one company witness. Applicant, during the hearing, proposed the following definition of the type of service to be rendered if the authority requested were granted:

"Direct door-to-door transportation without intermediate warehousing or storage, with delivery being accomplished within twenty-four hours of pickup."

The Applicant refused to undertake to question shippers as to whether this service is required or to screen the service tendered to them.

7. That the cost of this proposed transportation is an important variable in the potential utilization of the service proposed by the Applicant and not one of the witnesses who testified for the Applicant had been supplied a definite commitment as to the proposed tariffs or rates. Of the 16 shipper witnesses, only two indicated that cost would be no object in determining whether they would use the service proposed, and in both cases they were medical emergencies where the customer paid the freight. The number of shipments that would be tendered by these two shippers were infinitesimally small, 25 to 40 per year by one, and related to a specialized, individual emergency need rather than to a general public need.

8. That not one of the shipper witnesses presently serves directly the general public in North Carolina nor did anyone propose such general public service through Purolator's proposed service. Each witness was limited either to customers in his restricted service area, his own in-house needs, his own representatives or dealers, or some individualized need.

9. That United Parcel Service, Observer Transportation Company, Citizen Express, Inc., and Mid-State Delivery

Service, Inc., are presently providing door-to-door pickup and delivery service throughout the State of North Carolina. United Parcel Service is authorized to carry out this service throughout the entire State, and the other companies are authorized to carry out the service by interchange throughout almost the entire State with the exception of the northeasternmost corner. The delivery times vary, but basically United Parcel Service provides next-day service, and Observer, Mid-State, and Citizen provide same-day service in many instances within their own territory, and, in any event, provide 24-hour service within their territory.

10. That bus express is being offered throughout North Carolina by the various authorized motor bus carriers, including the intervening bus carriers. Through interchange and through service, express service is available throughout North Carolina from virtually any location in North Carolina. Bus express is generally used for expedited service and meets some of the needs of most of the shipper witnesses, but the inconvenience of the pickup at the station was expressed by most shippers, none of whom knew of the contractural arrangements for pickup and delivery in Asheville, Charlotte, Durham, Fayetteville, Greensboro, Hendersonville, Raleigh, Wilmington, and Winston-Salem, which are shown in the duly filed tariffs with this Commission, which services are provided by independent contractors.

11. That United Parcel Service provides service to virtually all of the shipper witnesses who testified on behalf of the Applicant, and most of the witnesses were utilizing in varying degrees motor bus express, courier services including Mid-State Delivery, Observer Transportation, Harper and other similar services, United States Parcel Post and first class mail, REA, and other means of transportation including motor freight, air and their own vehicles.

12. That satisfaction with the presently available transportation service for intrastate transportation of the size concerned in this application exists. Most of the shipper witnesses indicated that the largest part of their shipping needs were being adequately and satisfactorily met.

13. That the shipper witnesses generally wanted an optional or competitive service to be rendered by the Applicant, but they were unable to evaluate their potential utilization of the service due to lack of information on such factors as cost of the service, frequency of service, maximum weight limits or authority to make the final decision.

14. That the complaints voiced by the witnesses were basically ones of inconvenience rather than lack of service and were not documented. Not one witness had voiced any complaint to the North Carolina Utilities Commission prior

to the hearing about any problem with his transportation. Further, only three witnesses indicated that they had made inquiry to determine other sources of shippers, and they could not support with documentation the dates and times of these inquiries.

15. That the Applicant has trucks and employees presently utilized in its contract carrier operation, which it contends will be sufficient to handle the common carrier authority and has indicated that it will obtain the necessary equipment to provide this service if granted. The Applicant has been providing contract carrier service in North Carolina under its granted authority. Applicant admits that it has been transporting Group 2| critical replacement parts, excluding automobile parts, for IBM since on or about December 24, 1973, under authority granted in Docket No. T-1077, Sub 11, which relates only to bilateral contracts with Xerox Corporation and Terminal Communications, Inc. Further, the Applicant did not provide its operating results for its North Carolina operations, and the services for which it requests authority are not as those described in its promotional literature which was introduced as exhibits.

The Applicant does not propose to operate its contract and common carrier operations separately.

16. That the shippers, when asked, indicated that they would divert some if not all of the parcels presently being handled by bus express and by other types of presently certificated carriers if the applicant were granted the requested authority. The bus and other carrier witnesses projected a significant diversion.

17. That United Parcel Service is principally in the business of transporting 50-pound and under packages and parcels under common carrier authority granted by this Commission over irregular routes. The intervening carriers, Observer Transportation Company, Citizen Express, Inc., and Mid-State Delivery Service, Inc., depend heavily on the revenues generated by the parcels which would be subject to diversion if this Applicant were granted the authority requested. Citizen Express' projected operating ratio, if this authority is granted with the diversion of its divertible parcels, would be 141.7%. Likewise, Observer and Mid-State each have very high operating ratios, Mid-State's being 100.04% for 1974, and any diversion would be detrimental to their financial status.

18. That the motor bus carriers experienced a significant loss in business in early 1975 compared to previous years. Intrastate express revenue from 50-pound and under packages is considered essential to the present financial solvency of the motor bus carriers under their present tariffs. Diversions of this revenue from the motor bus carriers would be detrimental to their financial status. Carolina Coach Company projects that 96.64% of its intrastate express

revenue is generated by 50-pound and under packages, which would have a significantly detrimental effect if diverted. Seashore Transportation Company's projected operating ratio if it lost 100% of the intrastate divertible packages would be 106% and if it lost only 50% of the total intrastate 50-pound intrastate revenue would be 102%.

21. That the present certificated operating carriers, both truck and bus, have significant unutilized areas within the vehicles they are presently operating which are not being fully utilized nor filled on their regular operations. Each of these carriers is ready, willing and able to provide and carry out the transportation of parcels and packages within its authority and has been and is holding out itself to the general public to perform the authority given it by this Commission and has the capacity and equipment to carry out the authority duly given it.

22. That the Applicant and each of the Protestants-Intervenors are duly organized and existing under the law, each is authorized to transact business in the State of North Carolina, and each is properly before this Commission, and this Commission has jurisdiction over the subject matter of the application of the Applicant.

23. That Purolator Courier Corp., the Applicant herein, is at present a Contract Carrier operating under Permit No. P-131.

24. That the Protestants, Greyhound Lines, Inc., Seashore Transportation Company, Continental Southeastern Lines, Inc., and Carolina Coach Company (Bus Carriers), are common carriers of passengers and express operating under Certificates No. B-7, B-79, B-69 and B-115, respectively.

25. That the Protestants, Observer Transportation Company, Mid-State Delivery Service, Inc., and Citizen Express, Inc. (Property Carriers), are common carriers of freight operating under Certificates No. C-289, C-536 and C-1043, respectively.

26. That this application substantially duplicates, as to territory and commodities, the certificates of Protestant Bus Carriers and Protestant Property Carriers.

27. That this application also substantially duplicates, as to territory and commodities, the certificates of a number of other common carriers of freight including United Parcel Service.

28. That each supporting shipper has expressed a preference for the Applicant's proposed service, particularly the door-to-door and expedited delivery features thereof.

29. That very few specific complaints as to existing services are contained in this record and that no supporting

shipper has ever complained to this Commission regarding any deficiency in existing services.

30. That a number of the supporting shippers expressed general satisfaction with existing authorized transportation services.

31. That all Protestants presented testimony and some, traffic studies and financial exhibits from which the possible effect of the proposed service upon their existing operations can be determined.

32. That out of 16 witnesses presented by the Applicant, only one witness, John L. Allen, wanted the service sought in the application to be his primary means of shipping. Mr. Allen shipped a specialized scintillating detector but only had between 25 and 40 shipments per year. The other witnesses of the Applicant were going to use the service sought as an optional service to give a secondary outlet for their particular express package delivery needs.

Based upon the foregoing Findings of Fact, the evidence and testimony given at the hearing, the exhibits and records of the Commission, and the Oral Arguments by both Applicant and Protestants, the Commission makes the following

CONCLUSIONS

North Carolina General Statutes, Section 62-262(e) reads as follows:

"(e) If the application is for a certificate, the burden of proof shall be upon the applicant to show to the satisfaction of the Commission:

"(1) That public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

"(2) That the applicant is fit, willing and able to properly perform the proposed service, and

"(3) That the applicant is solvent and financially able to furnish adequate service on a continuing basis."

In addition to the above statute, the Commission has implemented Rule R2-15 which must be read for interpretation of the above statute. N.C.U.C. Rule R2-15 reads as follows:

"(a) If the application is for a certificate to operate as a common carrier, the applicant shall establish by proof (i) that a public demand and need exists for the proposed service in addition to existing authorized service, (ii) that the applicant is fit, willing and able to properly perform the proposed service, and (iii) that the applicant is solvent and financially able to furnish adequate

service on a continuing basis. Uncorroborated testimony of the applicant is generally insufficient to establish public demand and need."

It is without question that we must conclude that the Applicant is a corporation that is fit, willing and able to perform the proposed service and is solvent and financially able to furnish this service on a continuing basis.

In Section 1 of G.S. 62-262(e) wherein the burden is upon the Applicant to show that public convenience and necessity requires the proposed service in addition to existing authorized transportation service, we must conclude that Applicant has failed to sustain its burden of proof under the said statute.

It must be remembered that Applicant herein seeks statewide authority to transport packages of any nature with no restrictions other than to size, 50 pounds or less, and an aggregate of 100 pounds per day from one consignor to one consignee. An examination of the evidence presented in this docket fails to show a public need for the service sought on a statewide grant of authority. The General Assembly has adopted a policy that, nothing else appearing, the public is actually better served by a regulated monopoly than by competing suppliers of service which is an actual basis of the requirement of a certificate of public convenience and necessity and is a prerequisite to the right to serve. The requirement for a certificate is not an absolute prohibition against competition between a public common carrier rendering the same service where a public need exists. There is, however, inherent in this requirement the concept that once a certificate is granted which authorizes the holder or the holders to render the proposed service within the geographical area in question, a certificate cannot be granted to an additional competitor in the absence of a showing by the Applicant that the carriers in the area are not rendering and have not or will not render the proposed service in question.

The testimony in this case shows a majority of witnesses who are generally satisfied with existing service by the certificated carriers. In fact, in the instances where there is no such general satisfaction, no effort has been made to utilize existing service nor have any complaints been made to this Commission concerning present service. Therefore, we must conclude that the Applicant has failed to carry the burden of proving by evidence and its greater weight that the present motor transportation service across this State by existing carriers is inadequate.

The Applicant herein has not shown that a new and additional transportation service is needed and outweighs the overriding public interest of protecting the service of existing carriers and through these carriers the members of the public being served. The Applicant has failed to carry the burden of establishing that if its proposed authority

were granted its service will not endanger or impair the present operation of existing certificated carriers contrary to the public interest.

The evidence in this case clearly establishes that the Protestant Carriers will suffer substantial loss of revenue if this application is approved and there is competent, material and substantial evidence showing the diversion would be detrimental to those certificated carriers.

Based on the verified application, the transcript of the evidentiary hearing, the exhibits introduced into evidence, the statements and argument of all counsel at the hearing on the Exceptions, and the entire record in these proceedings, the Commission now finds, determines and concludes as follows: (1) the Findings of Fact made by the Hearing Commissioners in the Recommended Order should be adopted as the Findings of Fact of this Commission, together with the additional Findings of Fact in this Order; (2) the Conclusions as determined by the Hearing Panel should be adopted by this Commission as its Conclusions, together with the additional Conclusions found herein; (3) the Recommended Order Denying Application by the Hearing Commissioners dated June 30, 1976, is in all other respects adopted and affirmed; and (4) that all of Applicant's Exceptions to the Recommended Order should be denied and dismissed.

IT IS, THEREFORE, ORDERED:

(1) That all Exceptions filed by the Applicant to the Recommended Order are hereby denied and dismissed.

(2) That the application filed with the Commission on September 12, 1974, is hereby denied.

(3) That the Recommended Order dated June 30, 1976, in this docket be, and the same is, hereby adopted and is affirmed in all respects except as modified by the adoption of the additional Findings of Fact and Conclusions contained herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1701, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Tarheel Industries, Inc., Application to Amend Contract Carrier Permit No. P-260 to Authorize Transportation of Group 1, General Commodities, Under Contract with Lackey Industries, Inc., Between Points in Territory Specified | ) | ORDER GRANTING CONTRACT CARRIER AUTHORITY |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 4, 1976

BEFORE: Commissioners George T. Clark, Jr., Presiding, Tenney I. Deane, Jr., and Barbara Simpson

APPEARANCES:

For the Applicant:

J. Ruffin Bailey, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, Post Office Box 2246, Raleigh, North Carolina 27602

For the Protestants:

David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, Post Office Box 5027, Raleigh, North Carolina 27602
For: Overnite Transportation Company, Thurston Motor Lines, Inc., and Fredrickson Motor Express Corporation

A. W. Flynn, Jr., York, Boyd & Flynn, Attorneys at Law, Post Office Box 180, Greensboro, North Carolina 27402
For: Central Transport, Inc.

BY THE COMMISSION: On December 29, 1975, Tarheel Industries, Inc. (Applicant), State Road 1426, Post Office Box 220, Leland, North Carolina 28401, filed an application with the Commission for authority to transport:

> Group 1, General Commodities, except in tank or hopper vehicles, under contract with Lackey Industries, Inc. (1) between points and places in Brunswick, Columbus, Lenoir, Mecklenburg, and New Hanover counties, and (2) between points and places in Brunswick, Columbus, Lenoir, Mecklenburg, and New Hanover counties on the one hand, and on the other, points and places in North Carolina.

NOTICE of the application was published in the Calendar of Truck Hearings issued January 14, 1976, and a public hearing was scheduled for Thursday, March 4, 1976, at 9:30 a.m.

On February 20, 1976, Central Transport, Inc., High Point, North Carolina, filed a Protest and Motion for Intervention.

On February 23, 1976, Fredrickson Motor Express Corporation, Charlotte, North Carolina; Overnite Transportation Company, Richmond, Virginia; and Thurston Motor Lines, Inc., Charlotte, North Carolina, filed a Joint Protest and Motion for Intervention.

The public hearing at which all parties were present or represented by counsel was conducted on the scheduled date. At the opening of the hearing, the Applicant stipulated that it did not seek authority to transport commodities in tank or hopper vehicles, and the Protestant, Central Transport, Inc., withdrew its Protest but asked to remain a party of record.

E. G. Lackey, Applicant's president, testified and sponsored four exhibits: (1) listing of Applicant's officers, directors, and shareholders; (2) Applicant's balance sheet as of December 31, 1975; (3) Applicant's profit and loss statement for 1975; and (4) Applicant's equipment listing. Mr. Lackey described Applicant's existing operations under Contract Carrier Permit No. P-260 as a contract carrier of general commodities for E. I. DuPont DeNemours & Company in Brunswick County. In his opinion, transportation of general commodities for Lackey Industries, Inc. (Lackey), would entail similar methods of operation, and no substantial change in Applicant's procedures would be involved. Mr. Lackey's testimony tended to establish that Applicant had a good safety record and was financially solvent. The service to be provided to Lackey would include: dedication of equipment and personnel on a twenty-four-hour-a-day, seven-day-a-week basis, close communication between carrier and shipper, and a degree of control of operations by the shipper.

Ralph Dale Huffman, Vice President of Operations of Lackey, testified in support of the application. He sponsored as exhibits a list of the equipment used in Lackey's private carriage operation and a copy of its written contract with Applicant for the proposed service. Lackey is engaged in several enterprises, including public warehousing, distribution, light manufacturing, baling, and crating. It maintains facilities at Leland (Brunswick County), Charlotte (Mecklenburg County), Whiteville (Columbus County), Kinston (Lenoir County), and Wilmington (New Hanover County). It has need for transportation of its goods and products from its facilities to customers and users, from customers and suppliers to its facilities, and between its facilities. All transportation is performed by truck. Among the commodities it needs to transport are: Christmas decorations, yarn cartons, textile fibers, rugs, and yarn salvage. Points throughout the State of North Carolina are involved.

According to Mr. Huffman, Lackey has contracted with Applicant in order to reduce its private carriage operation. The regulations of the Economic Development Administration limit Lackey to expenditures of $100,000 per year for capital equipment. With that ceiling, Lackey has been forced to use monies that would otherwise have been used for purchase of production equipment to augment its private carriage fleet. As a result, its growth has been hindered. Further, Lackey wishes to avoid the expense and labor entailed in maintaining and operating a private carriage fleet. Lackey initiated its private carriage operations because of the need for dedicated equipment on a twenty-four-hour-a-day, seven-day-a-week basis. The volume of its private carriage in 1975 was in excess of 335 million pounds. In Mr. Huffman's opinion, common carriers would not be able to perform the service needed, and Lackey would have to continue private carriage operations at present levels if Applicant were denied authority. The traffic that would be tendered to Applicant upon approval of the application would be only that currently handled by Lackey under private carriage. There would be no diversion of freight from common carriers.

John C. Burton, Jr., Assistant Director of Traffic and Commerce, testified for the Protestant, Overnite Transportation Company. He sponsored three exhibits: (1) a list of equipment, terminals, and personnel maintained by Overnite; (2) a list of points in North Carolina served by Overnite; and (3) a traffic study purporting to reflect shipments handled by Overnite for Lackey Industries during the period November 1975 through February 1976. Mr. Burton expressed the opinions that the traffic reflected on Overnite Exhibit 3 would be subject to diversion if the instant application were approved and that Overnite could provide the service presently provided by Lackey's private carriage fleet. On cross-examination, Mr. Burton testified that Lackey Industries, Inc., was neither the shipper nor the consignee of the shipments reflected on Overnite Exhibit 3.

Bruce Hooks, Assistant Traffic Manager, testified for the Protestant, Thurston Motor Lines, Inc. He furnished a list of Thurston's terminals, equipment, and personnel as Thurston Exhibit 1. Mr. Hooks expressed a fear that DuPont traffic currently being handled by Thurston would be diverted if the instant application were approved. He asserted that Thurston could provide the service presently performed by Lackey's private fleet. On cross-examination, Mr. Hooks testified that Thurston's DuPont traffic could not be diverted to Applicant without complicity by DuPont and that he had never known DuPont to engage in such activities. He also testified that Thurston could not provide service on the twenty-four-hour-a-day basis needed by Lackey Industries.

Loy J. Foster, Traffic Manager, testified for Fredrickson Motor Express Corporation. He furnished a points list and

map of operations as Fredrickson Exhibits 1 and 2, respectively. He testified that two movements out of the Lackey Industries warehouse in Charlotte had been handled by Fredrickson. He expressed the opinion that Fredrickson could provide the service needed by Lackey Industries. On cross-examination, Mr. Foster testified that Lackey Industries was neither the shipper nor consignee for the shipments handled by Fredrickson out of its Charlotte warehouse.

Based upon the record in this proceeding and the testimony and exhibits presented at the hearing, the Commission makes the following

FINDINGS OF FACT

(1) That Tarheel Industries, Inc., is an authorized contract carrier of general commodities operating under Contract Carrier Permit No. P-260 issued by this Commission.

(2) That the Protestants, Overnite Transportation Company, Thurston Motor Lines, Inc., and Fredrickson Motor Express Corporation, are authorized common carriers of general commodities which, combined, have regular or irregular route authority to serve most points in North Carolina.

(3) That the Protest of Central Transport, Inc., was withdrawn upon the Applicant's stipulation made at the hearing that it does not seek authority to transport commodities in tank or hopper vehicles.

(4) That by this application Applicant proposes to transport general commodities for the account of Lackey Industries, Inc.

(5) That Applicant and Lackey Industries, Inc., have entered into a written contract for the proposed transportation, a copy of which was filed at the hearing.

(6) That Applicant owns and maintains a fleet of equipment suitable for the transportation of general commodities and has the resources to acquire additional equipment as needed.

(7) That Lackey Industries, Inc., is presently performing the transportation proposed by this application by means of private carriage.

(8) That the service proposed by this application is not now rendered by carriers operating under certificates.

(9) That because of governmental regulations restricting annual capital expenditures Lackey Industries, Inc., has been forced to choose between purchasing additional motor vehicles for private carriage and manufacturing equipment necessary to expand its operations.

(10) That operation of a private carriage fleet has become burdensome to Lackey Industries, Inc., and it desires to curtail the same and replace it with a contract carrier.

(11) That Lackey Industries, Inc., will continue its private carriage operations at present or increased levels if this application is denied.

(12) That Lackey Industries, Inc., has a need for dedicated equipment from a carrier with the ability to provide, on short notice, service on a twenty-four-hour-a-day, seven-day-a-week basis.

(13) That Lackey, by private carriage, is presently transporting an annual volume in excess of 335 million pounds of a wide range of commodities including Christmas decorations, yarn cartons, textile fibers, rugs, and yarn salvage between its facilities located at Leland, Charlotte, Whiteville, Kinston, and Wilmington and between those facilities and points in North Carolina.

CONCLUSIONS

(1) The proposed operations involving dedicated service under written bilateral contract conform with the definition of a contract carrier.

(2) As the supporting shipper is not now using the services of common carriers and as the evidence establishes that availability of a contract carrier will enable the supporting shipper to increase its production, thereby increasing potential traffic available to common carriers, the proposed operations cannot unreasonably impair the efficient public service of certificated carriers.

(3) The proposed service will not unreasonably impair the use of the highways by the general public.

(4) The Applicant is fit, willing, financially able, and qualified by experience to perform the proposed service.

(5) The proposed operations will be consistent with the public interest and the policy declared in this Chapter.

(6) The supporting shipper's business requires exclusive dedication of trucks and personnel service and close coordination and communication with the carrier providing the service. Common carriers are incapable of rendering such dedication of service and personnel. This establishes a need for a specific type of service not otherwise available by existing means of transportation.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That Contract Carrier Permit No. P-260, heretofore issued to Tarheel Industries, Inc., Leland, North Carolina, be, and the same is hereby, amended to include the authority more particularly described in Exhibit A attached hereto and made a part hereof.

(2) That the Applicant shall maintain its 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 the preparation of said annual report. A copy of the annual report form shall be furnished to the Applicant upon request to the Accounting Division.

(3) That the Applicant shall file with the Commission evidence of insurance, list of equipment, tariff of rates and charges, and designation of process agent and otherwise comply with the Rules and Regulations of the Commission, to the extent it has not already done so, prior to commencing operations under the authority acquired herein.

(4) That unless the Applicant complies with the requirements set forth in decretal Paragraph (3) above and begins operating, as herein authorized, within a period of thirty (30) days from the date of this Order, unless such time is extended in writing by the Commission upon written request, the operating authority acquired herein will cease and determine.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1701 SUB 1

Tarheel Industries, Inc.
State Road 1426, Post Office Box 220
Leland, North Carolina 2840

Contract Carrier Operating Authority

EXHIBIT A

Group 1, General Commodities, except commodities in tank or hopper vehicles, under contract with Lackey Industries, Inc. (1) between points and places in Brunswick, Columbus, Lenoir, Mecklenburg, and New Hanover counties, and (2) between points and places in Brunswick, Columbus, Lenoir, Mecklenburg, and New Hanover counties on the one hand, and on the other, points and places in North Carolina.

DOCKET NO. T-825, SUB 192
DOCKET NO. T-825, SUB 193
DOCKET NO. T-825, SUB 194

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

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| Docket No. T-825, Sub 192 Motor Common Carriers - Suspension and Investigation of Proposed Increases in Rates and Charges Applicable to Shipments of General Commodities, Including Minimum Charges | ORDER GRANTING RATE INCREASE - DENYING CLASSIFICATION CHANGES ON ARTICLES OF IRON OR STEEL AND PAPER AND PAPER PRODUCTS - DISALLOWING COMMINGLING TARIFF - ALLOWING VEHICLE ORDERED NOT USED RULE |
| Docket No. T-825, Sub 193 Motor Common Carriers - Suspension and Investigation of Proposed Increase in Rates and Charges, Scheduled to Become Effective April 3, 7 and 14, 1975 | |
| Docket No. T-825, Sub 194 Terminal Trucking Company, Inc., Concord, North Carolina - Suspension and Investigation - Increase in Truckload Minimum Weights and Reduction in Rates Applicable on Rayon and Synthetic Fibre and Rayon Yarn, Scheduled to Become Effective on May 4, 1975 | |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 18 and 19, 1975

BEFORE: Commissioner George T. Clark, Jr., Presiding; and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicants:

Homer S. Carpenter, John W. McFadden, Jr., Rice, Carpenter and Carraway, Attorneys at Law, 618 Perpetual Building, Washington, D.C. 20004

David H. Permar, T.D. Bunn, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, P.O. Box 527, Raleigh, North Carolina 27602

John W. Joyce, Southern Motor Carriers Rate Conference, 1307 Peachtree Street, N.E., Atlanta, Georgia

For the Protestants:

Thomas W.H. Alexander, Albert Bell, Maupin, Taylor and Ellis, Attorneys at Law, P.O. Box 829, Raleigh, North Carolina 27602
For: North Carolina Traffic League, National Small Shipments Traffic Conference, Drug and Toilet Preparation Traffic Conference, and N.C. Textile Manufacturers Association

Daniel J. Sweeney, Belnap, McCarthy, Spencer, Sweeney and Harkaway, Attorneys at Law, 1750 Pennsylvania Avenue, Washington, D.C. 20006
For: North Carolina Traffic League, National Small Shipments Traffic Conference, and Drug and Toilet Preparation Traffic Conference

James M. Jones, Jr., Attorney at Law, N.C. Textile Manufacturers Association, Inc., 20 Marietta Street, N.W., Atlanta, Georgia 30303
For: N.C. Textile Manufacturers Association, Inc.

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, E. Gregory Stott, Associate Commission Attorney, North Carolina Utilities Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION:

DOCKET NO. T-825, SUB 192

THE GENERAL COMMODITIES TARIFFS

The Commission received a Petition filed on March 25, 1975, for and on behalf of the North Carolina intrastate motor common carriers of general commodities, seeking relief from an outstanding Order in Docket No. T-825, Sub 177, dated November 13, 1974, which granted increases in rates and charges for general commodities.

On March 24, 1975, the Commission received for filing, for and on behalf of North Carolina intrastate motor common carriers of general commodities, tariff filings and an Application, along with certain data in support thereof, seeking approval of increased rates and charges, including accessorial rates and charges and minimum charges with said tariff filings being as follows:

Supplement No. 5 to Tariff No. 137-J, N.C.U.C No. 39, issued by Southern Motor Carriers Rate Conference, on behalf of its participating carriers;

Supplement No. 79 to Tariff No. 10-E, N.C.U.C. No. 9, issued by North Carolina Motor Carriers Association, Inc., Agent, on behalf of its participating carriers; and,

Supplement Nos. 65 and 66 to Tariff No. 3-G, N.C.U.C. No. 40, issued by Motor Carriers Traffic Association, Inc., Agent, on behalf of its participating carriers.

Each of the tariff publications bear an issue date of March 24, 1975, with a scheduled effective date of May 7, 1975, and each tariff publication provides for increases in rates and charges, including therein the fuel surcharge, as follows:

| NORMAL RATES AND CHARGES FOR SHIPMENTS WEIGHING (POUNDS) | PERCENT PROPOSED INCREASE INCLUDING PRESENT 4% FUEL SURCHARGE |
|---|---|
| 1 - 999 | 19 |
| 1000 - 1999 | 14 |
| 2000 - 4999 | 9 |
| 5000 or more | 7 |
| Volume or Truckload | 7 (See Note A) |

NOTE A: Minimum increase one (1) cent per cwt.

ACCESSORIAL RATES AND CHARGES ON N.C. INTRASTATE TRAFFIC

Increase in accessorial rates and charges by 20%.

MINIMUM CHARGES SCHEDULE

| RATE BASIS NUMBER | MINIMUM CHARGE |
|---|---|
| 1 to 100 | $ 8.00 |
| 101 to 200 | 8.50 |
| 201 to 300 | 9.00 |
| 301 and Over | 9.50 |

Thereafter, the Commission received a Petition, filed on April 7, 1975, requesting the Commission to grant emergency interim relief and permit the motion of the aforesaid motor common carriers to advance the effective date of the tariff publication so as to become effective at the earliest possible time on one (1) day's notice following appropriate tariff filing with the Commission.

The Commission also received a telegram on April 9, 1975, from the attorneys for the North Carolina Textile Manufacturers Association, Inc., Atlanta, Georgia, advising of their intent to file a formal protest and petition for suspension of the involved proposed increases and requesting the Commission to deny Applicants' request to place the entire general increase in effect on one(1) day's notice as Emergency Interim Relief.

The Commission, by Order dated April 24, 1975, granted the motor common carriers of general commodities operating in North Carolina intrastate commerce emergency interim relief by the following conditional increases in rates and charges, which increases were made subject to refund and cancellation:

(a) NORMAL RATES AND CHARGES

| FOR SHIPMENTS WEIGHING (POUNDS) | PERCENT INCREASE (INCLUDING PRESENT 4% FUEL SURCHARGE) |
|---|---|
| 1 - 999 | 12 |
| 1000 - 1999 | 9 |
| 2000 - 4999 | 7 |
| 5000 or More | 6 |
| Volume or Truckload | 6 (See Note) |

NOTE: Minimum increase one (1) cent per cwt.

(b) ACCESSORIAL RATES AND CHARGES ON N.C. INTRASTATE TRAFFIC

Increase all Accessorial Rates and Charges by Fourteen (14%) Percent (Including Present Four (4%) Percent Fuel Surcharge).

(c) MINIMUM CHARGES SCHEDULE

| RATE BASIS NUMBERS | MINIMUM CHARGE (IN CENTS) (INCLUDING PRESENT 4% FUEL SURCHARGE) |
|---|---|
| 1 to 100 | 750 |
| 101 to 200 | 800 |
| 201 to 300 | 850 |
| 301 and Over | 900 |

The new tariff publications reflecting the increases in rates and charges which include the present four (4%) percent fuel surcharge also include cancellation of the fuel surcharge provisions presently published in each of the aforementioned tariff publications involved in this proceeding.

The conditional emergency interim relief and tariff schedule cancellation provisions referred to above were allowed to become effective on five (5) days' notice to the Commission and to the public, but not earlier than May 1, 1975.

The Commission, being of the opinion that the above tariff filings affected the public interest, issued its Order on April 28, 1975, declaring the matter a general rate case under G.S. 62-137 and setting the docket for hearing. The tariff schedules were suspended, but the emergency interim increases were allowed to remain in effect pending the hearing and final disposition of the docket.

## CONDUITS AND PIPE RECLASSIFICATION

The Commission also received on May 28, 1975, Supplement No. 86 to North Carolina Motor Carriers Association, Inc., Agent, Tariff No. 10-E, N.C.U.C. No. 91, scheduled to become effective on June 28, 1975, which contains proposed changes, deletions, and additions as follows:

(a) Item 51205-A - CONDUITS, PIPE, cast iron, with prepared joints; PIPE, iron or steel, cast or wrought, etc. Cancels depressed LTL rating of Class 40 and places this commodity on the normal classification basis of Class 50.

The Commission suspended this tariff and consolidated it with the general commodities Docket No. T-825, Sub 192.

## VEHICLE ORDERED BUT NOT USED TARIFF

The Southern Motor Carriers Rate Conference, for and on behalf of its participating member carriers, also filed tariff schedule Item No. 202220-A in Supplement No. 17 to its Tariff No. 137-J, N.C.U.C. No. 39, scheduled to become effective October 24, 1975, proposing to increase the flat charge of $23.00 when a carrier upon request furnishes a truck to pick up truckload or volume shipments or furnish for the exclusive use of consigner a truck which vehicle has been dispatched for such purpose; and due to no disability, fault or negligence on the part of the carrier, the shipment is not tendered or the vehicle is not used, a charge of 50¢ per mile will be made for the actual distance to point of dispatch to the designated point of pickup and return to point of dispatch with a minimum charge of $23.00. This filing was made a part of Docket No. T-825, Sub 192.

## THE COMMINGLING TARIFF

The Southern Motor Carriers Rate Conference also filed Tariff No. 138, N.C.U.C. No. 40, scheduled to become effective on June 14, 1975, for and on behalf of carriers participating in Southern Motor Carriers Rate Conference, Agent, Tariff No. 137-J, N.C.U.C. No. 39. This tariff is a new tariff publishing local commodity rates applying on "Foodstuffs and Related Articles" which are shipped in volume quantities, via certain North Carolina intrastate common carriers of general commodities. The tariff proposes to establish a scale of rates having application on shipments which are North Carolina intrastate and interstate by nature, yet are transported commingled on one bill of lading at the same time, thereby establishing a single uniform rate for application on all of the shipments involved on said bill of lading. This tariff ("the Commingling Tariff") was also consolidated with Docket No. T-825, Sub 192.

DOCKET NO. T-825, SUB 193

The Southern Motor Carriers Rate Conference, Agent, the Motor Carriers Traffic Association, Inc., Agent, and the North Carolina Motor Carriers Association, Inc., Agent, for and on behalf of their participating member carriers, filed schedules proposing a revision in the classification and rates applicable on North Carolina intrastate shipments of articles of iron or steel; petroleum and petroleum products; and, paper and paper products. These filings were designated as follows:

Southern Motor Carriers Rate Conference, Agent: Motor Freight Tariff No. 137-J, N.C.U.C. No. 39, Supplement No. 3, thereto, Items Nos. 105590-A and 202490-A, thereof, scheduled to become effective April 3, 1975; and, Supplement No. 4, thereto, in full scheduled to become effective April 7, 1975,

Motor Carriers Traffic Association, Inc., Agent: Motor Freight Tariff No. 3-G, N.C.U.C. No. 40, Supplement No. 63, thereto, in full, scheduled to become effective April 14, 1975; and, Supplement No. 64, thereto, Items Nos. 53795-1/2-A and 7320-A, thereof, scheduled to become effective April 14, 1975,

North Carolina Motor Carriers Association, Inc., Agent: Motor Freight Tariff No. 10-E, N.C.U.C. No. 91, Supplement No. 78, thereto, all items thereof applicable on paper and paper products except where contained in Item No. 50040, scheduled to become effective April 14, 1975; and Items Nos. 104000-B, 105590-B and 206270-A, thereof, scheduled to become effective April 14, 1975.

The Commission suspended and consolidated these filings with the investigation and hearing in Docket No. T-825, Sub 192.

DOCKET NO. T-825, SUB 194

On April 4, 1975, the North Carolina Motor Carriers Association, Inc., Agent, for and on behalf of Terminal Trucking Company, Inc., Concord, North Carolina, and Carolina Freight Carriers Corporation, Cherryville, North Carolina, filed with the Commission Supplement No. 80 to its Motor Freight Tariff No. 10-E, N.C.U.C. No. 91, Item Nos. 502140-G through 502349.04 thereof proposing a reduction in certain rates subject to a volume minimum weight of 44,000 pounds applying on North Carolina intrastate transportation of rayon and synthetic fibre and rayon yarn, as described in Item 502140-G thereof, scheduled to become effective May 4, 1975.

On April 18, 1975, the members of the Regular Route Rate Committee, whose tariff publishing agent is Southern Motor Carriers Rate Conference, Inc., and the Irregular Route Rate Committee, whose tariff publishing agent is North Carolina

Motor Carriers Association, Inc., filed a petition seeking suspension and investigation of this tariff publication.

The Commission suspended this tariff filing and set it for hearing and investigation with Docket No. T-825, Sub 192. Terminal Trucking Company was made a respondent to the proceeding and was required to file testimony in support of its filing. When this docket (Sub 194) came on for hearing on November 18, 1975, it appeared that Terminal was not present and that the company had not filed its testimony in compliance with the Commission Order. Accordingly, the Commission granted a Motion to dismiss the tariff filing in this docket.

* * * * * *

The Commission by appropriate Orders recognized the petitions to intervene filed by the North Carolina Textile Manufacturers Association; the North Carolina Traffic League; the National Small Shipments Conference; and the Drug and Toilet Preparation Traffic Conference. The intervenors were present at the hearing and were represented by counsel.

All of the dockets came on for hearing November 18 and 19, 1975, in the Commission Hearing Room, Raleigh, North Carolina. In Docket No. T-825, Sub 192, the respondent carriers presented the testimony and exhibits of the following witnesses: Robert A. Hopkins, Secretary to the North Carolina Intrastate Regular Route Rate Committee; R.L. Steed, Secretary of the Southern Motor Carriers Rate Conference; Charles B. McGowan, cost analyst for the Southern Motor Carriers Rate Conference; Loy J. Foster, Traffic Manager of Fredrickson Motor Express Corporation; W.D. Snavely, Vice President and Traffic Manager, Standard Trucking Company; R.E. Fitzgerald, Vice President - Traffic, Estes Express Lines; John V. Luckadoo, Director of Traffic, Thurston Motor Lines; and Keith Sharpe, Senior Vice President, Pilot Freight Carriers.

The Intervenors presented the testimony and exhibits of Kenneth M. Manning, consultant on transportation matters with the firm of G.S. Fauth and Associates; and Alvin J. Mullins, Rate Analyst in the Traffic Department of the North Carolina Textile Manufacturers Association.

The Commission Staff presented the testimony and exhibits of James L. Rose, Chief of Transportation Rates and Tariffs in the Traffic-Transportation Division; and James C. Turner, Staff Accountant.

The respondent carriers presented two witnesses in support of the Commingling Tariff: John V. Luckadoo and Beryl G. Fritze, Assistant Traffic Manager for Hunt-Wesson Foods. Mr. Luckadoo also testified in support of the "truck ordered but not used" tariff provisions. Loy J. Foster testified in support of the proposed changes in the petroleum products

tariffs; Harvey A. Carter of Epes Transport System testified in support of the reclassification of iron and steel articles and of paper and paper products; and Charles R. McGowan testified on costing for the proposed rates of paper and paper products.

Based on the record in these proceedings and testimony and exhibits introduced at the hearing, the Commission makes the following

FINDINGS OF FACT

(1) In Docket No. T-825, Sub 192, the motor carriers of general commodities in North Carolina intrastate commerce, through their agents, the Southern Motor Carriers Rate Conference, the North Carolina Motor Carriers Association, and the Motor Carriers Traffic Association, have petitioned the Commission for the following increases in rates and charges on North Carolina intrastate shipments of general commodities:

| NORMAL RATES AND CHARGES FOR SHIPMENTS WEIGHING (POUNDS) | PERCENT PROPOSED INCREASE INCLUDING PRESENT 4% FUEL SURCHARGE |
|---|---|
| 1 - 999 | 19 |
| 1000 - 1999 | 14 |
| 2000 - 4999 | 9 |
| 5000 or more | 7 |
| Volume or Truckload | 7 (See Note A) |

NOTE A: Minimum increase one (1) cent per cwt.

ACCESSORIAL RATES AND CHARGES ON N. C. INTRASTATE TRAFFIC

Increase in accessorial rates and charges by 20%.

MINIMUM CHARGES SCHEDULE

| RATE BASIS NUMBER | MINIMUM CHARGE |
|---|---|
| 1 to 100 | $8.00 |
| 101 to 200 | 8.50 |
| 201 to 300 | 9.00 |
| 301 and Over | 9.50 |

(These proposed increases may be referred to hereafter as the general increases.)

(2) The Commission, by Order of April 28, 1975, suspended the proposed increases until hearing and final determination. However, by Order of April 25, 1975, the Commission, in response to a Motion of the motor carriers, permitted interim increases, subject to refund, to become effective on May 3, 1975. The interim increases were approved as follows:

| | |
|---|---|
| Minimum Charge | 8% to 11% |
| 1 - 999 lbs. | 8% |
| 1,000 - 1,999 lbs. | 5% |
| 2,000 - 4,999 lbs. | 3% |
| 5,000 and over LTL or AG | 2% |

(3) The fifteen (15) motor common carriers of general commodities participating in this docket accounted for about 80% of all revenues generated in intrastate commodities traffic in 1973. These carriers include the following seven (7) carriers that participated in the cost-revenue study presented by the respondent carriers in support of their proposed increases:

Estes Express Lines
Fredricksen Motor Express
Old Dominion Freight Lines
Overnite Transportation Company
Pilot Freight Carriers
Standard Trucking Company
Thurston Motor Lines.

(4) These seven (7) study carriers carry a preponderant share of the North Carolina intrastate commodities traffic.

(5) During the year 1974, the overall North Carolina intrastate operating ratio of the seven (7) participating carriers was 119.6%. (The operating ratio is the ratio of operating expenses to operating revenues. An operating ratio in excess of 100% means that operating expenses exceed operating revenues.) The 1974 intrastate operating ratios for each weight classification were in excess of 100% except for those on shipments weighing 5,000 pounds and over but less than truckload.

(6) The seven (7) study carriers have experienced substantial increases in their operating costs for intrastate traffic during the years 1974 and 1975.

(7) An operating ratio of 119.6% on the North Carolina intrastate commodities traffic of the respondent carriers is unfair and unjust to these carriers. The respondent carriers are entitled to the general increases in their rates and charges proposed by them in their filing of March 24, 1975. Even under the proposed general increase, the overall operating ratio of the carriers would approach 100%.

(8) The interim general increases approved by Order of April 25, 1975, were just and reasonable, and the revenues collected thereunder should be approved as permanent revenues of the respondent carriers.

(9) The proposed Commingling Tariff for foodstuffs embodies a new concept for rate making in North Carolina, in that intrastate shipments of foodstuffs would be permitted to move at a level of rates higher than the intrastate level of rates in effect or approved by this Order. No cost

justification was given for the higher level of rates. There is no probative evidence as to the manner in which revenues earned under the tariff would be allocated for rate making purposes. The proposed Commingling Tariff should be denied.

(10) The proposed cancellation of Class 40 LTL exception rating on iron or steel articles would permit the proposed Class 50 rating to apply. The resulting increases in rates for iron and steel articles under the proposed cancellation would range from 28% to 43%. These increases are in excess of the 7% to 19% general increases proposed in this proceeding. To the extent that the proposed cancellation would result in increases in excess of increases sought generally, these excess increases are unjust and unreasonable.

(11) The proposed adjustment on paper and paper products would result in increases in rates for these articles ranging from 5.6% to 20.6%. To the extent that the proposed adjustment on paper and paper products would result in increases in excess of the increases sought generally, such excess increases are unjust and unreasonable.

(12) The proposed adjustment relating to petroleum and petroleum products, which would eliminate certain items from a list of commodities transported under a Class 50 exception rating, is just and reasonable.

(13) The proposed "truck ordered but not used" tariff provision is just and reasonable.

(14) The proposed reclassification on North Carolina intrastate shipments of conduits, pipes, etc., from Class 40 to Class 50 would result in increases in rates for these articles ranging from 28% to 43%. To the extent that these increases exceed the increases sought generally, such excess increases are unjust and unreasonable.

(15) The respondent Terminal Trucking Company in Docket No. T-825, Sub 194, did not attend and participate in the hearing of November 18, 1975, and did not offer evidence in support of its proposed tariff reducing certain rates for rayon and synthetic yarn. Terminal's tariff filing was dismissed by the Commission at the hearing, and this Order reaffirms the dismissal of the tariff filing in Docket No. T-825, Sub 194.

## EVIDENCE AND CONCLUSIONS IN SUPPORT OF FINDINGS OF FACT

Findings of Fact 1 Through 8: The Commission finds and concludes that the respondent motor carriers of general commodities in North Carolina intrastate commerce have met the burden of proof to show that the general increases proposed are just and reasonable. These proposed increases range from 7% for volume or truckload shipments to 19% for

minimum charge shipments. The Commission finds and concludes that the respondents have demonstrated that these proposed increases are just and reasonable and are not discriminatory or preferential, and that the increases should be approved by this Commission. The respondent carriers presented a traffic study setting forth the cost-revenue relationships of the seven (7) carriers that carry a preponderant share of the North Carolina intrastate traffic in general commodities. During the year 1974, the overall intrastate operating ratio of these seven (7) carriers was in excess of 100% -- that is, 119.6%. This operating ratio means that the operating expenses of these seven (7) carriers exceed their operating revenues on their North Carolina intrastate traffic. The Commission finds and concludes that this operating ratio is unjust and unreasonable to the respondent carriers. Furthermore, the respondent carriers offered sufficient evidence to show that they face increasing costs of operations in almost every area of their operations, including costs for labor, fuel and equipment.

The Commission approves the rates proposed by the carriers in this docket. The Commission also finds and concludes that the interim rates approved on April 25, 1975, were just and reasonable and that the revenues collected under these interim rates should be affirmed as permanent revenues of the carriers.

Both the Staff and the Intervenors offered criticism of the carriers' formulae for determining the intrastate operating ratios, more specifically the carriers' performance factors employed in costing the intrastate traffic. It is the Commission's view that the carriers, in cooperation with the Commission Staff, should take positive steps toward further improving the method of determining the North Carolina intrastate operating ratio, including the performance factors of the cost study carriers.

Finding of Fact No. 9: (Commingling Tariff). The respondent carriers proposed a Commingling Tariff for volume shipments of foodstuffs and related articles. The effect of this tariff is as follows: Shipments of foodstuffs and related articles moving in North Carolina intrastate commerce and in interstate commerce from a single consignor and origin to a single consignee and destination may be commingled upon a single bill of lading. The level of rates proposed in this tariff is the interstate level of rates that was effective on April 25, 1975. The tariff would apply to shipments from Charlotte, North Carolina, including Chemway, to points in North Carolina, with minimum weights of 24,000 and 32,000 pounds. This tariff was published on behalf of a single shipper, Hunt-Wesson Foods, Inc., which maintains a wholesale distribution center in Charlotte, North Carolina.

The Commission is of the opinion, and so concludes, that the Commingling Tariff as proposed herein should be denied.

This tariff embodies a new concept for rate making in North Carolina and needs further study before the Commission can grant its approval of such a tariff. Approval of this tariff as proposed would set a precedent for Commingling Tariffs in other commodities.

The Commission expresses its concern about the following features of the proposed Commingling Tariff: The tariff would allow intrastate shipments of foodstuffs to move at a level of rates higher than the intrastate level of rates now in effect and proposed in this proceeding. The carriers offered no cost justification for the proposed higher level of rates in the Commingling Tariff. Further, the proposed Commingling Tariff would allow a wholly intrastate shipment to be converted to a commingling shipment by the addition of any desired weight of interstate traffic, thereby incurring the higher level of commingling rates. Finally, and most important, no probative evidence was presented by the carriers as to the manner in which revenues earned under the Commingling Tariff would be allocated for rate making purposes. As Mr. Luckadoo acknowledged, if revenues earned on the intrastate portion of the commingled shipments are not allocated to intrastate revenues, there would be a resulting decrease in intrastate revenues and a worsening intrastate operating ratio.

In view of our concern set forth above, the fact that the proposed Commingling Tariff will benefit the single supporting shipper is not within itself sufficient to approve such a tariff in this proceeding.

Finding of Fact No. 10: The general increases proposed by the carriers, including a 4% fuel surcharge, range from 7% for volume or truckload shipments to 19% for minimum charge shipments.

The carriers' supplemental tariff proposing to reclassify the ratings on iron and steel articles from Class 40 to Class 50 would result in increases ranging from 28% to 43% (see Rose testimony and exhibits). The Commission finds and concludes that the carriers did not offer sufficient probative evidence, including cost justification, to support increases for these articles in excess of the 7% - 19% proposed under the general increases. The contention of the carriers that the proposed changes would remove "obsolete" tariff matters from the tariffs is not sufficient, in the absence of other compelling evidence, to justify the excessive increases.

Findings of Fact 11 and 14: The reasons set forth for iron and steel articles apply with equal force to the proposed adjustments for paper and paper products, and conduit and pipe. (see No. 10 above.) The ordering paragraphs in this Order will set forth the manner in which these supplemental tariffs are to be handled.

Findings of Fact No. 12 and 13: The proposal to eliminate contraband items from the petroleum tariff and the proposed "truck ordered but not used" tariff are just and reasonable and will be approved by this Order.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the Commission's Orders of Suspension and Investigation in this proceeding be, and the same hereby are vacated and set aside, and that certain of the proposed tariff schedules are hereby approved and allowed to become effective after appropriate publication, upon one (1) day's notice but not earlier than February 1, 1976, as follows:

(a) Supplement No. 5 to Tariff No. 137-J, N.C.U.C. No. 39, (General Increases) issued by Southern Motor Carriers Rate Conference, on behalf of its participating carriers, scheduled to become effective May 7, 1975;

(b) Supplement No. 73 to Tariff No. 10-E, N.C.U.C. No. 91, (General Increases) issued by North Carolina Motor Carriers Association, Inc., Agent, on behalf of its participating carriers, scheduled to become effective May 7, 1975;

(c) Supplement Nos. 65 and 66 (Except rates shown in Classes "63" and "53") to Tariff No. 3-G, N.C.U.C. No. 40, (General Increases) issued by Motor Carriers Traffic Association, Inc., Agent, on behalf of its participating carriers, scheduled to become effective May 7, 1975;

(d) Southern Motor Carriers Rate Conference, Agent: Motor Freight Tariff No. 137-J, N.C.U.C. No. 39, Supplement No. 3, Item No. 202490-A, (Petroleum Products) thereof, scheduled to become effective April 3, 1975;

(e) Motor Carriers Traffic Association, Inc., Agent: Motor Freight Tariff No. 3-G, N.C.U.C. No. 40, Supplement No. 64 and Item No. 77320-A, (Petroleum and Petroleum Products) thereof, scheduled to become effective April 14, 1975;

(f) North Carolina Motor Carriers Association, Inc., Agent: Motor Freight Tariff No. 10-E, N.C.U.C. No. 91, Supplement No. 78, thereto, and Item No. 206270-A, (Petroleum and Petroleum Products) thereof, scheduled to become effective April 14, 1975; and,

(g) Southern Motor Carriers Rate Conference, Agent, Tariff No. 137-J, N.C.U.C. No. 39, Supplement No. 17, Item No. 202220-A, (Truck Provided But Not Used), scheduled to become effective on October 24, 1975.

(2) That the Respondents, be, and the same are hereby, required to make appropriate tariff publications canceling exceptions regarding proposed increased rates on paper and paper products which were treated separately in this proceeding, and are authorized to publish the proposed general increase as hereinabove mentioned in lieu of said exceptions.

(3) That in all other respects all other proposed increases in rates and charges involved in this proceeding be, and the same are hereby, denied.

(4) That the interim rate relief authorized in decretal paragraph 3 of the Commission's Order of April 24, 1975, be canceled by the filing of the appropriate tariff schedules authorized in paragraphs (1), (2) and (3) of this Order.

(5) That the proceeding be discontinued, and that upon the effectiveness of publications in compliance herewith the same is discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. T-521, SUB 18

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Harper Trucking Company, Inc., Raleigh, North Carolina - Application to Sell and Transfer Certificate No. C-73 from Haywood-Atkins Trucking, Inc., Cary, North Carolina, to Harper Trucking Company, Inc. | ) ORDER GRANTING TRANSFER |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Tuesday, June 8, 1976, at 9:30 a.m.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding, and Commissioners George T. Clark, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Ralph McDonald
Bailey, Dixon, Wooten, McDonald & Fountain

Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
Appearing for: Harper Trucking Company, Inc.
Haywood-Atkins Trucking, Inc.

For the Intervenors:

Thomas W. Steed, Jr.
Allen, Steed & Pullen, P.A.
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina 27602
Appearing for: Estes Express Lines

For the Commission Staff:

Paul L. Lassiter
Associate Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: By joint application filed with the Commission on March 22, 1976, Haywood-Atkins Trucking, Inc., P. O. Box 67, Cary, North Carolina, as Transferor, and Harper Trucking Company, Inc., P. O. Box 25868, Raleigh, North Carolina, as Transferee, seek approval of the transfer of Common Carrier Certificate No. C-73, together with operating rights contained therein, from the Transferor to the Transferee. Notice of the application together with a description of the involved authority was published in the Commission's Calendar of Hearings issued April 12, 1976. This notice contained the provision that if no protests were filed by 4:30 p.m. on Monday, May 3, 1976, the Commission would decide the case on the record.

On May 3, 1976, a protest was filed with the Commission in this docket by Mr. Thomas W. Steed, Jr., Allen, Steed and Pullen, P. A. Attorneys at Law, for and on behalf of Estes Express Lines, Richmond, Virginia. By Order issued May 5, 1976, the Commission allowed the intervention.

In consideration of the timely filed protest, the matter was set for hearing on Tuesday, June 8, 1976, at 9:30 a.m. Notice of the Hearing was published in the Commission's Calendar of Hearings issued May 12, 1976.

This matter came on for hearing on June 8, 1976, at the time and place first above noted. At the call of the hearing, both the Applicants and the Intervenor were present and represented by counsel. Mr. Haywood Atkins and Mr. Thomas Harper testified for the Applicants. Mr. Joe Sherrill testified for the Intervenor.

SUMMARY OF TESTIMONY

The Transferor, Haywood-Atkins Trucking, Inc., presented as its witness Mr. Haywood J. Atkins, President of Haywood-Atkins Trucking, Inc. Mr. Atkins testified as to the

Transferor's financial condition, business organization, and trucking operations. He stated that the Transferor was holder of North Carolina Common Carrier Certificate No. C-73 authorizing the transportation of general commodities (excluding leaf tobacco and accessories), in truckloads, over irregular routes specified as follows:

(1) Between points and places in Wake County,

(2) From points and places in Wake County to points and places in North Carolina in and east of the Counties of Stokes, Forsyth, Guilford, Randolph, Montgomery and Richmond,

(3) From points and places in and east of the counties named in paragraph 2 to points and places in Wake County.

This is the authority and certificate which the Transferor is seeking to transfer to the Transferee by this action.

Mr. Atkins testified that the Transferor was incorporated in 1961 being the successor in interest of the trucking company started in the 1930's by Harold Atkins, Haywood Atkins' father; that the Transferor has a terminal located in Cary, North Carolina; that the Transferor owns one tractor and four trailers; that the Transferor leases another tractor from an owner/operator who works part-time for the Transferor; that the Transferor advertises its services in the Yellow Pages as well as occasionally in Jaycee and/or law enforcement magazines; that the Transferor has been in continuous operation since it received its certificate; that the Transferor has at all times stood ready, willing and able to transport the commodities it is authorized to carry under its certificate; and that the Transferor, since being certificated, has never refused to transport any of the commodities it is authorized to carry.

Mr. Atkins testified as to the number and nature of the hauls made by the Transferor under its certificate. He stated that the Transferor was engaged in hauling general commodities of both an exempt and non-exempt nature. As part of his testimony, Mr. Atkins presented an abstract of transportation conducted by the Transferor under its certificate for the period of November 25, 1975, through May 31, 1976.

On cross examination, Mr. Atkins testified that a large majority of the transportation done by the Transferor is of exempt commodities including eggs, lumber and fertilizer. Mr. Atkins stated, however, that the Transferor has transported its exempt commodities as if they were non-exempt general commodities and has transported them pursuant to its general commodities common carrier authority and tariff.

Mr. Atkins testified that the Transferor and the Transferee have entered into an agreement for the sale and transfer of Certificate No. C-73 for the sum of $20,000.00. An initial down payment of $4,000.00 is to be made with the Transferee to sign a promissory note for the balance of $16,000.00 made payable to the Transferor. As security for the promissory note, the Transferee has agreed to enter into a security agreement with the Transferor giving the Transferor a security interest in the Certificate sought to be transferred. A copy of the contract of sale, promissory note and security agreement were submitted with the application and were subsequently entered into the record. Mr. Atkins testified that there are no outstanding debts against the Transferor.

The Transferee presented as its witness Mr. Thomas Harper. He offered testimony as to the Transferee's qualifications, business experience and financial ability to take over the operations and perform the transportation services required by the authority it seeks to acquire.

Mr. Harper testified that the Transferee now holds Certificate CP-38 from the North Carolina Utilities Commission authorizing the Transferee to engage, inter alia, in the contract carriage of medicine, drugs, and automotive parts within a 150 air mile radius of Raleigh. The Transferee, in addition, has irregular route common carrier authority, with certain limitations, to transport general commodities, except petroleum products in bulk in tank trucks and leaf tobacco and accessories, to, from and between all points on and east of the Atlantic Coast Line Railroad running from Wilmington to Weldon and from that designated area to and from points and places in North Carolina bounded on the east by the above mentioned railroad and on the west by U.S. Highway 21, in truckloads of 5,000 pounds and/or trailer loads of 10,000 pounds.

Mr. Harper testified that the Transferee has a terminal located at 300 Hoke Street, Raleigh, North Carolina. He further stated that the Transferee has a combined total of approximately twenty tractors, trailers and trucks. Along with his testimony, Mr. Harper presented an up to date equipment list of the Transferee. He further testified that the Transferee plans on using its present equipment to perform the proposed haulage if the transfer is approved, and he stated that such equipment is suitable for the proposed haulage.

Mr. Harper next testified as to the Transferee's financial ability to perform the proposed transportation. As part of his testimony, Mr. Harper presented a balance sheet of the Transferee dated December 31, 1975, and an income statement for the period July 1, 1975, through December 31, 1975. Mr. Harper admitted, upon questioning, that the Transferee has a very low current ratio (current assets/current liabilities). He stated, however, that he does not, based on his estimates and computations, anticipate that the Transferee will

experience any difficulty in paying its debts as they fall due and of providing adequate service under the proposed operations.

Mr. Joe W. Sherrill, Traffic Manager of Estes Express Lines testified for the Intervenor. He testified that the Intervenor has irregular route authority between all points in North Carolina east of Marion which completely blankets the area sought to be transferred. The Intervenor, furthermore, has fourteen terminals in North Carolina, including terminals at Raleigh, Charlotte, Greensboro, Fayetteville and Wilmington. As part of his testimony, Mr. Sherrill introduced a list of the Intervenor's terminals and equipment located in North Carolina. He also presented a points list and traffic abstract of the Intervenor's service to the area sought to be transferred. He further stated that the Intervenor is presently operating well below capacity and would probably lose twelve percent (12%) of its revenues if another carrier is allowed in the territory.

Having considered the evidence presented at the hearing, the record in this proceeding as a whole and the Commission's relevant official files, of which judicial notice is hereby taken, the Commission makes the following

FINDINGS OF FACT

1. That the Transferor is the holder of North Carolina Common Carrier Certificate No. C-73 authorizing the transportation of general commodities, in truckloads, excluding leaf tobacco and accessories, over irregular routes as specified in Docket No. T-399, Sub 1 and Sub 2, as indicated in Certificate No. C-73.

2. That the Transferor proposes to transfer the authority granted to it in Certificate No. C-73 to the Transferee.

3. That the Transferee now holds Certificate CP-38 from the North Carolina Utilities Commission authorizing the contract carriage of medicine, drugs and automotive parts within a 150 air mile radius of Raleigh and the irregular route common carriage, with certain limitations, of general commodities, except petroleum products, in bulk, in tank trucks, and also excluding leaf tobacco and accessories, to, from, and between all points on and east of the Atlantic Coast Line Railroad running from Wilmington to Weldon and from that designated area to and from points and places in North Carolina bounded on the east by the aforementioned railroad and on the west by U.S. Highway 21, in truckloads of 5,000 pounds and/or trailer loads of 10,000 pounds as indicated in Certificate No. CP-38.

4. That the Certificate held by the Transferor has been actively and continuously operated in accordance with the laws of the State and the Rules and Regulations of this Commission.

5. That the Transferor and the Transferee have entered into a written contract for the sale and transfer of Certificate No. C-73 under terms and conditions which require a $4,000.00 initial payment and a balance of $16,000.00 payable in subsequent installments of $750.00 at one month intervals.

6. That as part of the contract of sale, the Transferor and Transferee have entered into a security agreement giving the Transferor a security interest in the operating rights to be transferred as security for the unpaid part of the purchase price.

7. That the Transferee has the business experience, the financial ability and is otherwise fit, willing and able to acquire the authority sought from the Transferor and to properly perform and render adequate and reliable service under the franchise on a continuing basis.

8. That there are no debts or claims outstanding against the Transferor of the nature specifically set out in G.S. 62-111(c).

9. That the transfer in this case is in the public interest and will not unlawfully affect the service to the public under the franchise. Further, the proposed transfer will not unlawfully affect the service to the public which is presently being provided by other public utilities.

10. That the proposed Transferee is fit, willing and able to perform the service to the public under the proposed sale and transfer of the Certificate.

Whereupon, the Commission reaches the following

CONCLUSIONS

This case involves a joint application for Commission approval of the transfer of irregular route operating authority to transport general commodities, in truckloads, excepting leaf tobacco and accessories, from the Transferor as set forth in Certificate No. C-73 to Transferee as indicated as follows:

The transportation of general commodities, in truckloads, over irregular routes:

(1) Between points and places in Wake County;

(2) From points and places in Wake County to points and places in North Carolina in and east of the Counties of Stokes, Forsyth, Guilford, Randolph, Montgomery and Richmond;

(3) From points and places in and east of the counties named in paragraph 2 to points and places in Wake County.

The Court of Appeals in the case of Utilities Commission v. Coach Company, 269 N.C. 717, 153 SE 2d 461 (1967), stated that the policy of the State as declared in the Public Utilities Act of 1963 clearly favors transfers of actively operated motor freight carrier certificates without unreasonable restraints inasmuch as public convenience and necessity was shown to exist when authority was granted or acquired under the 1947 Grandfather Clause and as the rebuttal presumption of law is that the public need and necessity continues. The Court of Appeals further made it clear that such policy and such statutes would not protect other carriers from increased competition to be anticipated from an aggressive transferee.

The Commission has generally and for the most part held to the view that five things are primarily essential to the sale of operating rights: (1) The seller must be the owner of the rights; (2) The operation under the rights must be active, or at least, not abandoned; (3) There must be a contract or agreement between the Transferor and the Transferee for the sale; (4) The purchaser of Transferee must be fit, able and willing to render service under the authority on a continuing basis; (5) The seller must file a statement under oath with respect to debts and claims. The evidence offered and the application and records of the Commission of which judicial notice is taken justify that all five of these requirements have been met. The Commission further finds the security agreement between Transferor and Transferee to be satisfactory.

The Commission, therefore, is of the opinion and concludes that the transfer is in the public interest, will not adversely affect the service to the public under the certificate, will not unlawfully affect the service to the public by other public utilities, that the Transferee is fit, willing and able to perform such service to the public under the certificate, that such service has been continually offered to the public by the Transferor and that the application should be approved.

IT IS, THEREFORE, ORDERED:

1. That the transfer of Common Carrier Certificate No. C-73, more particularly described in Exhibit B attached hereto and made a part hereof, from Haywood-Atkins Trucking, Inc., to Harper Trucking Company, Inc., be, and the same is hereby approved.

2. That Harper Trucking Company, Inc., shall file with the Commission, to the extent it has not done so, evidence of required insurance, list of equipment, tariff of rates and charges, designation of process agent, and otherwise comply with the rules and regulations of this Commission and institute operations under the authority herein acquired within thirty (30) days from the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-521, SUB 18

Harper Trucking Company, Inc.
1030 Hammel Street
P. O. Box 25868
Raleigh, North Carolina 27611

Irregular Route Common Carrier Authority

EXHIBIT B

The transportation of general commodities, in truckloads, over irregular routes:

(1) Between points and places in Wake County;

(2) From points and places in Wake County to points and places in North Carolina in and east of the Counties of Stokes, Forsyth, Guilford, Randolph, Montgomery and Richmond;

(3) From points and places in and east of the counties named in paragraph 2 to points and places in Wake County.

NOTE: The right to transport leaf tobacco and accessories having been waived, the authority herein does not include the right to transport such commodities.

The operating authority granted herein to the extent that it duplicates any authority heretofore granted to or currently held by the carrier shall not be construed as authorizing more than one operating authority.

DOCKET NO. T-1611, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Burton Lines, Incorporated, Forbes Transfer Company, Inc., North State Motor Lines, Inc., and Vance Trucking Company, Complainants<br><br>vs.<br><br>Lee Transport, Inc., Defendant | ) | CEASE AND DESIST ORDER |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on September 24, 1975

BEFORE: Commissioners George T. Clark, Jr., Presiding; Ben E. Roney and Barbara A. Simpson

APPEARANCES:

For the Complainants:

David H. Permar, Hatch, Little, Bunn, Jones, Few and Berry, Attorneys at Law, Box 527, Raleigh, North Carolina 27602; Appearing for: Burton Lines, Inc.; Forbes Transfer Company, Inc.; North State Motor Lines, Inc.; Vance Trucking Company, Inc.

For the Defendant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Attorneys at Law, Box 1406, Raleigh, North Carolina 27602; Appearing for: Lee Transport, Inc.

For the Commission Staff:

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 15, 1975, Lee Transport, Inc., filed an application with this Commission to transport Group 19, unmanufactured tobacco and accessories, between points and places in Forsyth, Rockingham, Robeson, Pitt, Columbus, Wilson and Lenoir Counties under bilateral contract with R. J. Reynolds Tobacco Company. On May 7, 1975, five common carriers holding authority to transport unmanufactured tobacco in the State of North Carolina filed a protest to said application. On June 17, 1975, the Applicant amended its application, deleting therefrom the Counties of Robeson, Pitt, Columbus, Wilson and Lenoir. On June 18, 1975, four of the protestants to Lee Transport's

application filed a complaint with the Commission alleging that Lee Transport was engaged in leasing its equipment to R. J. Reynolds Tobacco Company in violation of certain Commission rules and regulations. On July 7, 1975, Lee Transport, Inc., filed its answer to the complaint admitting that it was in fact leasing equipment to R. J. Reynolds Tobacco Company, but denying that said lease was in violation of any laws or regulations of the State of North Carolina. On the same date, Lee Transport, Inc., filed a motion to withdraw its application for contract carrier authority and the Commission subsequently granted said motion on July 15, 1975. On July 29, 1975, the complainants filed their reply to the Answer of the defendant requesting the hearing and advising the Commission that said answer was unacceptable. By Order of August 15, 1975 the Commission set the matter for public hearing on September 24, 1975.

On August 29, 1975, the complainants filed a request for issuance of a subpoena duces tecum requesting certain information be furnished by R. J. Reynolds Tobacco Company. The subpoena was served on the defendant on September 3, 1975. On September 11, 1975, the defendant through its attorneys filed a motion to quash the subpoena duces tecum. By Order dated September 16, 1975, the Commission denied the motion and ordered that the requested information be made available to the complainants.

Subsequent to the hearing on September 30, 1975, two of the complainants, Forbes Transfer Company and Vance Trucking Company, Inc., filed motions with the Commission which requested that the two complainants be allowed to withdraw their complaint.

The complaint came on for hearing as scheduled on September 24, 1975. The complainants offered the testimony of the following witnesses:

(1) Donald T. Bryan, the Vice President and General Manager of North State Motor Lines, Inc., a complainant, testified that on May 30, 1975, he observed three tractor trailers, marked as belonging to Lee Transport, Inc., parked outside an R. J. Reynolds prize house located in Farmville, North Carolina. He testified that two of the trucks had been unloaded and that tobacco-related material was being unloaded from a third vehicle. Mr. Bryan further testified that he asked one of the drivers to whom were the vehicles leased and the driver replied that the vehicles were not leased and that he was working for Mr. Griffin.

(2) George E. Martin, a Vice President of Burton Lines, Inc., one of the complainants, testified that on August 27, 1975, he observed two tractor trailers marked on the side as belonging to Lee Transport, Inc., parked outside the R. J. Reynolds prize house in Reidsville, and that one of the vehicles was loading hogsheads of tobacco.

(3) Mr. August Heist, the Director of Traffic and Distribution for R. J. Reynolds Tobacco Company, testified that Lee Transport had been hauling tobacco in sheets for R. J. Reynolds from Reidsville to Winston-Salem for three or four years. He also testified that for the last two years R. J. Reynolds has been leasing tractor trailers from Lee Transport. Mr. Heist further testified that the terms of the lease were contained in a letter dated May 6, 1975, from R. A. Sisk, General Leaf Supervisor for R. J. Reynolds to Lee Transport, Inc., and that the letter lists the number of tractors and trailers that would be leased to R. J. Reynolds from Lee Transport subject to the following conditions:

(a) The trucks would only be leased when needed;

(b) Compensation would be paid in terms of the specified price per thousand pounds of tobacco or materials and equipment for certain specified moves;

(c) Lee Transport would maintain the vehicles; and

(d) Lee Transport would procure and maintain liability and property damage insurance.

Mr. Heist further testified that the method for compensation was determined by the same variables, the size of the shipment and length of haul, which would determine the rate if the traffic were to move by common carrier. In response to a subpoena duces tecum, Mr. Heist provided the names and employment records of seven employees of R. J. Reynolds who were operating said leased vehicles, all of whom were seasonally employed and five of whom had worked for Lee Transport.

(3) Mr. Wayne Griffin, President and Owner of Lee Transport, testified that during the tobacco-marketing season he also works for R. J. Reynolds as the receiving foreman and truck dispatcher. Mr. Griffin also testified that additional pieces of equipment other than that originally shown in the lease and spelled out in the letter of May 6, 1975, were subsequently leased to R. J. Reynolds by merely adding the vehicle number to the letter of May 6, 1975. Mr. Griffin further testified that some of the equipment leased by Lee Transport to R. J. Reynolds is not in fact owned by Lee Transport but is leased to Lee Transport and then in turn leased to R. J. Reynolds. Mr. Griffin testified that all those hired by R. J. Reynolds as drivers of the Lee Transport equipment had been referred to R. J. Reynolds by himself and that Lee Transport reserved the right to approve the drivers of the vehicles. Mr. Griffin testified further that when the vehicles are no longer needed by R. J. Reynolds they are released to Lee Transport for its use, and that a vehicle might be operated for Lee Transport by the same driver who had driven the truck for R. J. Reynolds and that this in fact had occurred in the past. Mr. Griffin testified that Lee Transport does not have the authority to perform the service for R. J.

Reynolds which was performed by these vehicles and that that was the reason for the lease of the equipment to R. J. Reynolds.

Based on the Complaint and Answer filed in this docket, the testimony and the exhibits offered at the hearing, and the entire record, the Commission makes the following

FINDINGS OF FACT

(1) Lee Transport, Inc., is a common carrier authorized by this Commission to perform the following transportation services:

The transportation of general commodities, except those requiring special equipment and except unmanufactured tobacco in hogsheads over irregular routes from Reidsville to all points and places within a fifty-mile radius.

(2) Lee Transport, Inc., entered into a lease agreement with R. J. Reynolds Tobacco Company in which Lee Transport, Inc., agreed to lease and did lease certain motor vehicles including tractors and trailers to R. J. Reynolds Tobacco Company. The lease agreement which was set out in a letter of May 6, 1975, from R. J. Reynolds, Inc., to Lee Transport, Inc., was subject to the following terms and conditions:

(A) The motor vehicles were to be made available to R. J. Reynolds as needed.

(B) Rental rates which included the cost of all gas and oil or the following rates per 1,000 pounds:

(1) $4.00 for tobacco hauled within a 40-mile radius of Fairmont, North Carolina;

(2) $2.72 for tobacco hauled from Reidsville, North Carolina to Winston-Salem, North Carolina, or Brook Cove, North Carolina;

(3) $4.97 for any materials or equipment hauled from Winston-Salem to any market in North Carolina.

(C) Lee Transport was to maintain the motor vehicles in operating condition, procure all licenses for the motor vehicles and pay all taxes assessed against the motor vehicles.

(D) Lee Transport was to maintain all insurance required by law on the motor vehicles and was to repay any damage caused to the motor vehicles by the negligence of R. J. Reynolds.

(E) At the end of 1975 all motor vehicles were to be returned to Lee Transport in the same condition as

received except for reasonable wear and tear and damage by unavoidable casualty.

(3) The certificate issued to Lee Transport does not authorize the leasing of motor vehicles.

(4) The leasing of motor vehicles to R. J. Reynolds Tobacco Company, a private shipper, by Lee Transport, Inc., a common carrier, subject to the jurisdiction of this Commission, is in violation of the Commission rules and regulations.

Based upon the entire record the Commission makes the following

CONCLUSIONS

Lee Transport, Inc., holds common carrier authority issued to it by this Commission, which authority does not authorize the leasing of motor vehicles to private shippers.

Lee Transport, Inc., did lease certain motor vehicles including tractors and trailers to R. J. Reynolds Tobacco Company. The purpose of the lease was for R. J. Reynolds to use the leased motor vehicles to haul tobacco or materials or equipment in North Carolina.

Rule R2-33 of the Commission's Rules states that a common or contract carrier shall use his rolling equipment solely in furtherance of that authority, and shall not transport property for private purposes in the same vehicle or vehicles, or under the same name as that used pursuant to its common carrier authority. The Commission concludes that Lee Transport, Inc., is in violation of Rule R2-33 by using its equipment to carry on a leasing operation in addition to the use of the equipment in furtherance of its own authority. The transportation of property for private purposes in the same vehicles as those used pursuant to the Applicant's common carrier authority is a further violation of Rule R2-33.

Rule R2-6 states that no common carrier of property shall lease equipment with drivers to private carriers or shippers under any circumstance. Rule R2-6(c) incorporates the regulations of the Interstate Commerce Commission contained in 49 CFR Section 1057 which are not in conflict with the North Carolina General Statutes. It is stated in 49 CFR Section 1057.6 (a) that authorized carriers shall not rent equipment with drivers to private carriers or shippers. There are exceptions to this provision given but those exceptions do not apply in this case. It is stated in 49 CFR Section 1057.6(b) that authorized common carriers shall not rent equipment without drivers to private carriers. Exceptions to this prohibition are given but those exceptions do not apply in this case. Neither Subsection (a) nor Subsection (b) is in conflict with the North Carolina General Statutes. The Commission concludes that

the leasing by Lee Transport, Inc., of motor vehicles to R. J. Reynolds is in violation of the Commission's Rules whether the vehicles were leased with or without drivers.

The Commission further concludes that the effect of allowing a lease of this type to be used by a common carrier would be to obviate any reason for seeking authority from this Commission to perform such transportation services. Regulation of the transportation services would revert to the shipper who through the medium of the lease would control what commodities would be hauled, under what conditions the commodities would be hauled, and between what points and at what rates the commodities would be hauled. This would provide a means by which the regulatory scheme of the North Carolina statutes could be circumvented.

IT IS, THEREFORE, ORDERED:

(1) That Lee Transport, Inc., cease and desist from leasing any of its vehicles to R. J. Reynolds Tobacco Company or any other shipper for private purposes now and in the future.

(2) That Forbes Transfer Company of Wilson, North Carolina, and Vance Trucking Company, Inc., of Henderson, North Carolina, are hereby allowed to withdraw their complaint in this docket and remove their names as formal parties of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1601, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application by Parks Moving and Storage, Incorporated, for Authority to Assign its Operating Rights Under Common Carrier Certificate No. C-599 to the Small Business Administration as Collateral for a Loan | ) ) ) ) ) | ORDER GRANTING AUTHORITY TO ASSIGN OPERATING RIGHTS |

BY THE COMMISSION: This matter arose upon the filing with this Commission of an application by Parks Moving and Storage, Incorporated (Applicant), for authority to assign its rights and interest in Certificate No. C-599 as collateral for a loan of two hundred fifty-four thousand dollars ($254,000) from the Small Business Administration.

The Commission based upon consideration of the application filed herein, the assignment agreement attached thereto, and a letter from Mr. J. Russell Lowe, District Counsel of the U.S. Small Business Administration, makes the following

FINDINGS OF FACT

1. That Parks Moving and Storage, Incorporated, is a corporation duly organized and existing under the laws of the State of North Carolina and is engaged in the business of providing common carrier services under common carrier Certificate No. C-599 issued by this Commission; is a public utility as defined by the Public Utilities Act of North Carolina; and is subject in its operation to the jurisdiction of the North Carolina Utilities Commission.

2. That Parks Moving and Storage, Incorporated, has applied to the U.S. Small Business Administration for a two hundred fifty-four thousand dollar ($254,000) loan in order to finance its operation.

3. That Parks Moving and Storage, Incorporated, has agreed to assign, transfer, and set over to the Small Business Administration all its rights, title and interest in and to the said hauling franchise as collateral for the aforementioned loan.

4. That Parks Moving and Storage, Incorporated, will retain possession of the operating rights under the hauling franchise so long as no default is made in the payment of the note or in any agreement evidencing the loan.

5. That is default is made by Parks Moving and Storage, Incorporated, in the payment or performance of the loan, then the Small Business Administration shall have the option of taking over said hauling franchise with the right of reassigning the franchise after applying for approval by this Commission.

Based on these Findings of Fact, the Commission now concludes that the transactions herein proposed are for a lawful object within the corporate purposes of the Applicant; compatible with the public interest and necessary and appropriate for and consistent with the proper performance by Applicant of its service to the public and will not impair the ability to perform that service.

IT IS, THEREFORE, ORDERED:

1. That the application filed by Parks Moving and Storage, Incorporated, requesting authority to assign the operating rights granted to the Applicant under Certificate No. C-599, issued by this Commission, as collateral for a loan from the Small Business Administration be, and the same hereby is, granted.

2. That the assignment of the aforementioned operating rights shall be solely for the purpose of providing the Small Business Administration with the collateral for the two hundred fifty-four thousand dollars ($254,000) loan which the agency seeks to loan to Parks Moving and Storage, Incorporated.

3. That in the case of default by Parks Moving and Storage, Incorporated, the Small Business Administration shall file with the Commission for prior approval of any reassignment of the operating rights herein assigned as collateral.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-29, SUB 247

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Southern Railway Company - Petition for | ) RECOMMENDED |
| Authority to Discontinue its Agency Station | ) ORDER |
| at Concord, North Carolina, and to Dismantle | ) GRANTING |
| and Remove the Present Station Building | ) PETITION |

HEARD IN: Alderman's Meeting Room, City Hall, 66 Union Street, Concord, North Carolina, on June 10, 1975

BEFORE: D. D. Coordes, Hearing Examiner

APPEARANCES:

For the Applicant:

G. Clark Crampton
Joyner & Howison
Attorneys at Law
906 Wachovia Bank Building
Raleigh, North Carolina 27602

Protestants: None

For the Commission Staff:

E. Gregory Stott
Associate Commission Attorney
One West Morgan Street
Raleigh, North Carolina 27602

COORDES, HEARING EXAMINER: By petition filed with the Commission on April 1, 1975, Southern Railway Company (Southern) seeks authority to discontinue its agency station at Concord, North Carolina, and to dismantle and remove the present station building, and to handle future business from its agency station at Kannapolis, North Carolina.

Rule R1-14 of the Commission's Rules and Regulations, requiring posting of notice of proposed action of Petitioner, was complied with.

The Commission caused an investigation to be made of the matter, and on April 7, 1975, Inspector Jimmy B. Eanes, of the Commission's Staff, contacted interested parties in the Concord area to determine whether or not there were any objections to Southern's proposal. Inspector Eanes' report revealed that Cannon Mills, Kerr Industries, Inc., and Mayor A. M. Brown of Concord had no objections, and that Foils, Inc., and Mineral Research & Development Corp. did object to the proposal of Southern.

The Commission, being of the opinion that the interest of the public was involved, assigned the matter for hearing on June 10, 1975, by its Orders in this Docket dated May 12, 1975. By this same order, Southern was required to give notice to the public of the time, place and purpose of the hearing by having an appropriate notice thereof published in a newspaper having general circulation in the Concord, North Carolina, area, on three different days prior to the hearing.

The order further provided that any protest to the petition of Southern should be filed with the Commission at least ten (10) days prior to June 10, 1975.

The required publications of notice of hearing were made and the Commission did not receive any protests to Southern's proposal as a result of the published notices.

Hearing in this matter was held at the captioned time and place with Petitioner present and represented by Counsel. No one appeared at the hearing in opposition to the authority sought.

The Applicant presented the testimony of Mr. C. A. Stevenson, Jr., Trainmaster, and Mr. Charles N. Loughery, Assistant Commerce Statistician, with supporting exhibits. Mr. Stevenson testified that the Concord agency is open 8:00 A.M. to 5:00 P.M., Mondays through Saturdays, but that the agent is away from his office approximately five (5) hours per day conducting railroad business; that Kannapolis is presently open 7:00 A.M. to 6:00 P.M., Mondays through Saturdays; that if the application is approved the Kannapolis agency hours will be 7:00 A.M. through 10:00 P.M., Mondays through Saturdays; that there will be no change in the physical handling of pickup and delivery of cars; that consignees would be notified of arrival of

carload shipments by telephone from Kannapolis the same as presently being done at Concord; that collect telephone calls from Harrisburg will be accepted at Kannapolis which will be the governing station for Harrisburg in lieu of Concord; that a telephone system is proposed whereby customers in Harrisburg can call the Kannapolis station at no charge and that a new position will be created at Kannapolis which the present agent at Concord will fill.

Mr. Stevenson testified further that the two agents at Kannapolis could handle the workload there which would be the present workload plus that from Concord and Harrisburg; that to order cars, a customer at Harrisburg or Concord would call Kannapolis instead of Concord; that there would be no greater delay in servicing cars than is presently the case; that there would be no change in passenger service inasmuch as there are no regularly scheduled passenger stops at Concord; that Trains 1, 5 and 6 provide passenger service at Concord, but Concord is a flag stop for these trains; that, if the application is granted, a platform and shelter would be provided at Concord for flag-stop passengers; that the proposal outlined in the instant application would improve the service presently being offered to the shipping public and would result in actual out-of-pocket dollar savings to the Applicant.

Mr. Stevenson testified on cross-examination that during the 5 hours per day the Concord agent is out of the office, there is no one there to answer the telephone, but that there will be someone to answer the telephone at Kannapolis and that by the Concord agent taking the new job created at the Kannapolis agency, there would be no down-the-line displacement of personnel.

Mr. Charles N. Loughery, Assistant Commerce Statistician, offered testimony explaining the exhibits concerning revenues and expenses, the number of carload shipments received and forwarded and the passenger traffic handled by the Concord agency for the year 1973 and the twelve-month period ending June, 1974. Mr. Loughery testified further that Applicant was not losing money at the Concord agency, but that it could offer better service to the public in the involved area by improved operational conditions through the Kannapolis agency.

At the conclusion of Applicant's presentation, the Hearing Examiner inquired once again if there was anyone present in the courtroom who had an interest in this matter and desired to be heard. There was no response to the Examiner's question.

Having considered all of the evidence presented and the record in this matter as a whole, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That the Applicant, Southern Railway Company, is a corporation authorized to do business in North Carolina as a franchised common carrier by rail, engaged in both interstate and intrastate commerce; that with regard to its intrastate operations, Applicant is subject to the jurisdiction of and regulation by the North Carolina Utilities Commission, and that Applicant has properly filed its application with this Commission, over which this Commission has jurisdiction.

(2) That Applicant is hereby requesting authority to discontinue its agency station at Concord, North Carolina, to dismantle and remove the present station building and to handle business from its agency station at Kannapolis, North Carolina.

(3) That Applicant proposes to add a new position at the Kannapolis agency with the agency being open for business from 7:00 A.M. to 10:00 P.M., Mondays through Saturdays.

(4) That present office hours of the Concord agency are 8:00 A.M. to 5:00 P.M., Mondays through Saturdays, with the agent's duties requiring him to be away from his office approximately five (5) hours per day.

(5) That Applicant's agent at Concord will take the new position at Kannapolis thereby eliminating any down-the-line displacement of personnel due to the exercising of seniority privileges by the Concord agent.

(6) That Applicant proposes to implement a toll free telephone system whereby its customers at Harrisburg can call the Kannapolis agency to conduct their business at no charge to the customer.

(7) That, until the toll free telephone system is installed, Applicant will accept collect telephone calls from its customers in Harrisburg.

(8) That Applicant will personally contact each of its customers in the Harrisburg area to advise them the Kannapolis agency will accept collect telephone calls.

(9) That, upon dismantlement of the Concord station, a platform and shelter will be provided at Concord.

(10) That the added position at the Kannapolis agency and the lengthening in office hours will result in better service being offered to the public in the area involved.

(11) That there will be no reduction in either freight or passenger train service at Concord.

(12) That Applicant gave appropriate and proper notice of the hearing of its application as required by the Commission.

(13) That no one appeared at the hearing in opposition to Applicant's proposal.

(14) That public convenience and necessity no longer require the continuance of the agency station at Concord, North Carolina.

(15) That the changes in the present method of operation as proposed ought reasonably to be made.

CONCLUSIONS

Upon the foregoing Findings of Fact, the Hearing Examiner concludes that the Applicant has met the burden of proof placed upon it by Statute to allow it to have the relief prayed for in the application; that public convenience and necessity no longer require the continued operation of the agency station at Concord, North Carolina, nor the attendant expense to the railroad associated therewith and that the public will be adequately served if the business at Concord is conducted from the agency station at Kannapolis, North Carolina.

Every railroad is mandatorily required to furnish adequate, efficient and reasonable service in accord with G.S. 62-131(b).

G.S. 62-245 deals with the railroad's duty to receive and forward freight tendered and provides a penalty for unlawful refusal to receive and forward such freight. It is the conclusion of the Hearing Examiner that such duty to receive and forward tendered freight remains unaltered by the approval of the instant application.

The evidence shows that under Applicant's plan its trains will continue to serve Concord in the same manner as at present, although the details of the movement of shipments received or forwarded and of empty cars and other matters incidental to the movements will be handled by its Kannapolis agency. There will be no abandonment of train service now available to patrons of Applicant at Harrisburg and Concord.

In the foregoing circumstances, the Hearing Examiner concludes, and so finds, that the application in this Docket should be approved.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the application of Southern Railway Company for authority to discontinue its agency station at Concord, North Carolina, to dismantle and remove the present station building and to handle business from its agency station at

Kannapolis, North Carolina, be, and the same is hereby, approved.

(2) That appropriate tariff publication be made reflecting the change herein authorized.

(3) That so long as Applicant retains ownership of the station building at Concord, North Carolina, it should be maintained in a reasonable state of repair.

(4) That Applicant notify the Commission the date its agency station at Concord is discontinued and the date the station building is disposed of or dismantled.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-66, SUB 74
DOCKET NO. R-66, SUB 75

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Rail Common Carriers - Suspension and Investigation of Proposed Increase in Rates and Charges, (X-310-A) Scheduled to Become Effective June 27, 1975, and Proposed Increase in Rates and Charges, (X-313) Scheduled to Become Effective September 13, 1975 | ) ORDER GRANTING RATE INCREASE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, November 12, 1975, at 10:00 a.m.

BEFORE: Commissioners Marvin R. Wooten, Presiding, and Tenney I. Deane, Jr., and W. Lester Teal, Jr.

APPEARANCES:

For the Respondents:

Odes L. Stroupe, Jr.
Joyner & Howison
906 Wachovia Building
Raleigh, North Carolina

James L. Howe, III
Southern Railway Company
P. O. Box 1808, Washington, D. C. 20013

Albert B. Russ, Jr.
Seaboard Coast Line Railroad Company
3600 West Broad Street
Richmond, Virginia 23230

For the Commission Staff:

Edward B. Hipp
Commission Attorney
North Carolina Utilities Commission
P. O. Box 991 - Ruffin Building
Raleigh, North Carolina 27602

E. Gregory Stott
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991 - Ruffin Building
Raleigh, North Carolina 27602

BY THE COMMISSION: On May 21, 1975, Southern Freight Tariff Bureau (SFTB), 151 Ellis Street, N. E., Atlanta, Georgia 30303, for and on behalf of the rail carriers in North Carolina filed a tariff schedule proposing an increase of approximately 7 percent (7%) in rates and charges applicable on North Carolina intrastate shipments scheduled to become effective June 27, 1975, and designated as Supplement S-9 to tariff of increased rates and charges X-310-A. The Commission being of the opinion that this matter affected the public interest entered an Order in Docket No. R-66, Sub 74, dated June 11, 1975, suspending the effective date of the above-mentioned tariff schedule to and including March 22, 1976, instituted an investigation into and concerning the lawfulness thereof and assigned the matter for hearing on November 12, 1975.

On August 8, 1975, the Commission received an additional filing by Southern Freight Tariff Bureau (SFTB) for and on behalf of the rail carriers in North Carolina of a tariff schedule proposing an increase of approximately 5 percent (5%) in rates and charges scheduled to become effective on September 13, 1975, and a further increase of approximately 2.5 percent (2.5%) scheduled to become effective on October 1, 1975, on North Carolina intrastate rail shipments and designated as follows:

STB Tariff of Increased Rates and Charges X-313, Supplement No. S-11, thereto, in full

The Commission on August 11, 1975, received a motion from Mr. James L. Howe, III, Attorney for Southern Railway Company, Washington, D.C., Mr. Albert B. Russ, Jr., Attorney, Seaboard Coast Line Railroad Company, Richmond, Virginia, and Mr. Odes L. Stroupe, Jr., Joyner and Howison, Attorneys at Law, Raleigh, North Carolina, for and on behalf of the rail carriers operating in the State of North Carolina requesting that if the Commission found it necessary to suspend the proposed increase (X-313) and

assign the matter for hearing that it set the matter for hearing at the same time as the hearing in Docket No. R-66, Sub 74(X-3|0) which had been assigned for hearing for November |2, |975.

The Commission being of the opinion that the proposed increases in rates and charges as hereinabove enumerated was a matter affecting the public interest the Commission found and concluded that the involved tariff schedule should be suspended, an investigation instituted, and the matter assigned for hearing to determine the justness and reasonableness of the proposed tariff publication. By Commission Order dated August 27, |975, the Commission suspended the rates, consolidated Docket No. R-66, Sub 74 (X-3|0) and Docket No. R-66, Sub 75 (X-3|3) and assigned the matter for hearing in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, November |2, |975, at |0:00 a.m.

The applicants offered testimony of various witnesses representing the railroads. Each of the witnesses offered testimony in both Dockets R-66, Sub 74, and R-66, Sub 75. The applicants first offered the testimony of Mr. R. D. Briggs, Manager, Commerce Marketing and Planning Division, Southern Railway Company, who offered testimony and exhibits regarding Southern's traffic and their increased expenses. Mr. Briggs offered testimony in both dockets in question.

Mr. George M. Gallamore, Jr., Assistant General Freight Agent in the Commerce Section of the Freight Traffic Department, Seaboard Coast Line Railroad, testified regarding Seaboard Coast Line Railroad Company's traffic and increased expenses which Seaboard has incurred in recent years. Mr. Gallamore gave similar testimony in both of the aforementioned dockets.

Mr. Hartley W. Hird, Jr., Assistant Manager of the Research Department, Southern Freight Association, testified regarding statistical and financial data related to the principal Class I railroads operating in North Carolina in both of the aforementioned dockets. Mr. R. A. Robb, Commerce Statistician in the Accounting Department, Office of Assistant Comptroller, Southern Railway Company, testified regarding separation of intrastate and interstate expenses and revenues. Mr. Robb also testified regarding the railroad applicants' rate bases. Mr. Robb offered similar testimony in both of the above-mentioned dockets.

The North Carolina Utilities Commission staff offered the testimony of J. Philip Lee, Rate Specialist and Special Investigator in the Traffic Transportation Division of the North Carolina Utilities Commission, who offered testimony and exhibits showing the operating revenues, expenses and operating ratios in the State of North Carolina for the years |970, |97|, |972, |973 and |974 as reflected in the annual reports filed with the Commission by the carriers named in this proceeding.

Based on the testimony given, the exhibits presented, and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. That the rail common carriers participating in the tariff schedules under suspension in this proceeding are subject to regulation by this Commission and are properly before the Commission with respect to such rates and charges through representation of the Southern Freight Tariff Bureau.

2. That inflation in many phases of intrastate rail common carrier operation has adversely affected the operating ratios of the respondents.

3. That the approximate ratable proportion of the railroad property used and useful devoted to North Carolina intrastate traffic is $38,368,000.

4. That the total railway operating revenues for the three major railroads herein derived from North Carolina intrastate traffic is $23,405,000.

5. That the total railway operating expenses for the three major railroads herein allocated to North Carolina intrastate operations is $23,639,000.

6. That the formulas and methods used in making the separations in this case do not reflect to a certainty accurate results and that the Respondents herein should continue their efforts for improvement in this area.

7. That the applicants have not provided this Commission with information regarding separations of expenses and revenues for the other states in which the rail common carriers operate.

8. That the present rates and charges are not adequate to insure the railroads a proper rate of return on their North Carolina investment.

9. That the operating ratio realized by the railroad applicants is not sufficient to allow them to continue to provide good and adequate service to their customers in North Carolina.

10. That the increase in intrastate rates and charges which were designated as X-310 and X-313 in this matter are necessary at this time to afford the railroads a fair return on their property used and useful in connection with their North Carolina intrastate operations.

11. That the rail common carriers participating in the tariff schedules under suspension in this proceeding are subject to the regulations of this Commission and are in

need of additional revenues and they therefore should be allowed to make an increase in their rates and charges.

Whereupon the Commission reaches the following

CONCLUSIONS

1. G.S. 62-146(h) requires that this Commission give due consideration to among other factors the effect of rates upon movement of traffic by the carrier or carriers for which the 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 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. We conclude that the respondents herein have shown a need for the additional revenues that the proposed increases will produce, that these increases are not excessive and that the suspended tariffs schedules should be allowed to become effective.

3. This Commission however does not conclude that the formulas and methods used in making the separations in this case reflect to a certainty accurate results and we continue to advise, admonish and enjoin the respondents herein to continue their efforts for improvement in this area.

4. The Commission further concludes that the Respondents herein have failed to provide data regarding the expenses and revenues which would be allocated to each state that the rail common carriers participating in these suspended tariffs are operating. Despite the admonishments of this Commission in a previous Commission Order granting a rate increase, the railroads failed to provide this information. Mr. R.A. Robb on cross-examination when asked a question regarding separations among the states of expenses and revenues testified:

"But what we attempt to do at Southern is to allocate expenses to the states that we operate in, every railroad company in our system using a number of statistics that relate to the type of operating expenses involved. For example the maintenance away, well and transportation expenses for example you have crew wages, you have yard operations, station and terminal expenses, fuel, any number of items. Each one of those individual expense accounts, based on our study, we allocate to the various states using a different statistic or maybe the same statistics or maybe a combination of statistics. Then we come down to a total for that particular operating account and we use that and then make a new percent for the entire operating expense account. For example, fuel in North Carolina might be 20 percent of the total. Another account might be 10 percent of the total. Another might be 40 percent of the total. You put them all together and

make a composite percent. We do this to every account and we do it periodically. As a matter of fact, it is a project I don't like to do because it is time consuming and a lot of detail. But I have to do it again and will do it again."

The railroads apparently have information regarding the expenses and revenues allocated to each state in which they operate. The Commission has requested this information but the railroads have not seen fit to provide the Commission with this information. The Commission again, as it has done earlier reminds the rail common carriers that G.S. 62-75 places the burden of proof upon the public utility whose rates, service, classification, rule, regulation or practice is under investigation to show that the same is just and reasonable. The absence of affirmative evidence presented by the rail common carriers in future cases regarding separation of expenses and revenues among the other states in which the rail common carriers are operating will of necessity leave this Commission with no alternative but to to render a decision unfavorable to a rate increase.

5. The Commission therefore concludes that in the absence of such evidence in the future by necessity may result in negative findings and we advise and enjoin the carriers to present additional evidence which the carriers have previously prepared regarding the separation of operating revenues and expenses in the other states in which the rail common carriers are moving traffic.

6. The Commission concludes that it is the duty of this Commission to protect the public by requiring service at just and reasonable rates and that this duty also requires the Commission to fix rates which are just and reasonable to the utility so that the utility may have sufficient earnings to enable it to give reasonable service.

7. Despite the fact that the railroads have failed to provide certain evidence which the Commission deems necessary the Commission is aware and so concludes that inflation and many phases of intrastate common carrier operations have adversely affected the operating ratios of the railroads and they must have some additional rate relief at this time in order that they might continue to provide the level of service which they are presently performing.

8. The Commission further concludes that the rail common carriers who are the respondents herein have carried their statutory burden of proof of showing that the proposals herein are just and reasonable.

9. Based upon the Conclusion that inflation is affecting the intrastate common carrier operations, this Commission must in this case conclude that the rail common carriers who are the respondents herein have carried their statutory burden of proof of showing that the proposals herein are just and reasonable. However in the future, this showing

will not be sufficient to carry said statutory burden of proof.

IT IS, THEREFORE, ORDERED:

1. That the Order of Suspension in these consolidated dockets dated June 11, 1975, and August 27, 1975, be and the same hereby are vacated and set aside for the purpose of allowing the tariff schedules hereinabove described to become effective.

2. That the publications authorized hereby may be made on one 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 construction, filing and posting of tariff schedules.

3. That upon publications hereby authorized having been made that the investigation in this matter be discontinued and this proceeding be and the same hereby is discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-66, SUB 77

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Rail Common Carriers - Suspension and Investigation of Proposed Cancellation of Rates on Industrial Sand from Marston, North Carolina, to Eller and Henderson, North Carolina, Scheduled to Become Effective January 1, 1976 | ) RECOMMENDED ) ORDER ) DENYING ) CANCELLATION ) OF ) RATES |

HEARD IN: The Library of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Thursday, April 15, 1976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Applicant:

Frank P. Ward, Jr.
Attorney at Law
Maupin, Taylor & Ellis, P. A.
33 West Davie Street

Raleigh, North Carolina 27602
Appearing for: Seaboard Coast Line
Railroad Company

Neill W. McArthur, Jr.
Attorney at Law
Seaboard Coast Line Railroad Company
500 Water Street
Jacksonville, Florida 32202
Appearing for: Seaboard Coast Line
Railroad Company

For the Protestant-Intervenors:

Joseph R. Beatty
Attorney at Law
Jordan, Wright, Nichols, Caffrey & Hill
P. O. Box 989, Greensboro, North Carolina 2740|
Appearing for: Owens-Illinois, Inc., and
Carolina Silica, Inc.

For the Commission Staff:

Dwight W. Allen
Assistant Commission Attorney
North Carolina Utilities Commission
P.O. Box 99|, Raleigh, North Carolina 27602

Paul L. Lassiter
Associate Commission Attorney
North Carolina Utilities Commission
P.O. Box 99|, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: On November 25, |975, the Southern Freight Tariff Bureau (Southern Freight Association, Agent), |5| Ellis Street, N.E., Atlanta, Georgia 30303, filed a tariff schedule, for and on behalf of rail carriers in North Carolina, proposing to cancel specific commodity rates on sand, industrial, in car loads, from Marston, North Carolina, to Eller and Henderson, North Carolina, scheduled to become effective January |, |976. This tariff schedule was designated Southern Freight Tariff Bureau Freight Tariff 388-L, Supplement 52, Items 44850 and 44854.

The effect of the proposed tariff is as follows: on a shipment of 200,000 pounds per car, the proposed change would result in a rate increase of |4.5% on shipments of sand from Marston to Eller, North Carolina, and an increase of |3.5% on shipments from Marston to Henderson.

On December |2, |975, Owens-Illinois, Inc., Toledo, Ohio, filed a protest and petition for suspension of the proposed cancellation. This protest and motion was amended by a filing on January 8, |976. On December |8, |975, the Commission issued an Order suspending the proposed cancellation and setting the matter for investigation and

hearing. Ordering paragraph No. 4 of the Commission's Order provided:

"(4) That common carriers by rail in the State of North Carolina participating or proposing to participate in the tariff schedules suspended hereby, and practices in connection therewith, are hereby made respondents in this proceeding and shall have the burden of proof under G.S. 62-75 and G.S. 62-134 of showing that the proposed changes in rates on industrial sand are just, reasonable, are not the means of creating discrimination, preference or prejudice, and are otherwise lawful, and that the attention of the respondents be, and hereby is, directed to the provisions of Rule R1-17 of the Rules of Practice and Procedure."

Thereafter, the Southern Freight Tariff Bureau filed Supplement 59-A reflecting the suspension of the proposed cancellation.

On March 15, 1976, Carolina Silica, Inc., Marston, North Carolina, filed a petition for leave to intervene in this docket, which was allowed by appropriate Commission Order.

This matter came on for hearing as scheduled on April 15, 1976, in Raleigh. All of the parties, including the Commission Staff, were present and represented by counsel. The respondent Seaboard Coast Line Railroad Company offered the testimony and exhibits of George M. Gallamore, Jr., Assistant General Freight Agent in the Commerce Section of the Freight Tariff Department of the Family Lines System, which includes Seaboard. The Commission Staff presented the testimony and exhibits of J. Philip Lee, Rate Specialist and Special Investigator in the Traffic-Transportation Division of the Commission. The Intervenor Carolina Silica, Inc., presented the testimony of W. C. Boren, III, President of the company, and Frank N. Wilner, Vice President and General Manager of Transportation Consultants, Inc.

Briefs were filed in this proceeding by Seaboard and Carolina Silica, Inc. Based on the record in this proceeding and the testimony and exhibits presented at the hearing, the Hearing Examiner makes the following

## FINDINGS OF FACT

(1) Southern Freight Tariff Bureau, Atlanta, Georgia, has filed a tariff schedule, for and on behalf of rail carriers in North Carolina, proposing to cancel specific commodity rates on sand, industrial, in car loads from Marston, North Carolina, to Eller and Henderson, North Carolina.

(2) The respondent railroads have failed to carry the statutory burden of proof to show that the proposed change in the industrial sand rates is just and reasonable.

CONCLUSIONS

It is fundamental under the North Carolina rate making procedure that the party proposing a change in rates shall have the burden of proof to show that the changed rates are just and reasonable. G.S. 62-75; G.S. 62-134. The shippers and customers of a railroad have no burden to prove anything; the existing rates are presumed to be just and reasonable. Utilities Commission v Railroad, 267 NC 317. This proceeding is not a general rate case. G.S. 62-137. Accordingly, it is not required that the procedure outlined in G.S. 62-133 be used. Utilities Commission v Light Co., 250 NC 421. The respondent railroads, however, must show, at a minimum, that the revenues earned under the rates proposed to be canceled are inadequate to compensate them for the cost of providing the service involved and to provide a reasonable profit. See, Rail Common Carriers - Suspension and Investigation of Proposed Changes in Grain Rates, Docket No. R-66, Sub 72 (December 22, 1975).

The respondent railroads have failed to carry the burden of proof to show that the proposed change in the industrial sand rates is just and reasonable. As pointed out by the intervenor Carolina Silica in its brief, the respondent railroads have produced no substantial evidence as to the costs of providing the service from Marston to Eller and Henderson, North Carolina. The respondent witness Gallamore did testify that the 100-ton hopper cars used in transporting the sand had increased in cost from $15,809 in 1969 to about $28,600 presently. This was the respondent's evidence as to its costs, and this evidence is insufficient. On cross-examination, Mr. Gallamore acknowledged that he did not know what it cost to move industrial sand from Marston to Eller and from Marston to Henderson. (Tr. p. 17). Furthermore, there is neither evidence of the revenues under the present rates, nor is there evidence of revenues under the proposed rates. Without such evidence as to revenues and costs, the Hearing Examiner cannot determine whether the proposed increase is just and reasonable. In the absence of proof to the contrary, it must be presumed that the existing point-to-point rates are just and reasonable. G.S. 62-132. These rates, it must be noted, are the result of negotiations between the intervenor Carolina Silica and the respondent railroads.

The respondent railroads argue in their brief that the proposed rate is not an unjust and unreasonable "practice", since the proposed rates will promote "shipper equality" in interstate and intrastate commerce throughout the South. However meritorious such a result may be, the law of this State does not recognize the promotion of shipper equality between interstate and intrastate commerce as the controlling standard in fixing rates. See, on this point, Utilities Commission v State, 243 NC 12.

Consequently, the Hearing Examiner finds and concludes that the respondent railroads failed to show that the

proposed change in rates for industrial sand is just and reasonable under the law of North Carolina.

IT IS, THEREFORE, ORDERED:

(1) That the increases proposed in tariff schedule designated:

Southern Freight Tariff Bureau (Southern Freight Association, Agent), Freight Tariff 388-L, Supplement 52, Items 44850 and 44854, therein,

be, and the same are, hereby denied.

(2) That the Respondent Rail Carriers be, and the same are, hereby required to continue in effect those rates sought to be cancelled by the tariff schedule described in Ordering Paragraph (1) above, by the issuance of an appropriate tariff schedule.

(3) That the publication authorized hereby may be made effective on one (1) day's notice to the Commission and to the public and shall otherwise comply with the Commission's Rules governing the construction publication and filing of transportation tariff schedules.

(4) That upon publication authorized hereby having been made, the investigation in this matter shall be discontinued and the docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-66, SUB 80

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Rail Common Carriers - Suspension and Investigation of Proposed Increase in Rates and Charges (X-318), Scheduled to Become Effective May 20, 1976 | ) ORDER DENYING<br>) RATE INCREASE |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, September 8, 1976, at 9:30 a.m.

BEFORE: Commissioners J. Ward Purrington, Presiding, and Ben E. Roney and Barbara A. Simpson

APPEARANCES:

For the Respondents:

Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, 906 Wachovia Building, Raleigh, North Carolina 27602

James L. Howe, III, Southern Railway Company, Post Office Box 1808, Washington, D. C. 2013

Albert B. Russ, Jr., Seaboard Coast Line Railroad Company, 3600 West Broad Street, Richmond, Virginia 23230

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, and Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991 - Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 16, 1976, Southern Freight Tariff Bureau (SFTB), 15 Ellis Street, N. E., Atlanta, Georgia 30303, for and on behalf of the rail carriers in North Carolina, filed a tariff schedule proposing an increase of approximately seven percent (7%) in rates and charges applicable on North Carolina intrastate shipments scheduled to become effective May 20, 1976, and designated as follows:

SFTB Tariff of Increased Rates and Charges, X-318, Supplement No. S-6, thereto, in full.

The Commission, being of the opinion that this matter affected the public interest, entered an Order in Docket No. R-66, Sub 80, dated April 29, 1976, suspending the effective date of the above-mentioned tariff schedule to and including February 13, 1977, instituted an investigation into and concerning the lawfulness thereof and assigned the matter for hearing on September 8, 1976.

The matter came on for hearing as scheduled and the Applicants offered testimony of various witnesses representing the railroads. Mr. R. D. Briggs, Manager, Commerce, Marketing and Planning Division, Southern Railway Company, offered testimony and exhibits for the respondents regarding the history of the case, Southern's traffic, capital expenditures, and increased costs of operation, which, in the opinion of the railroad, necessitate the proposed increase in intrastate rates.

Mr. George M. Gallamore, Jr., Assistant General Freight Agent in the Commerce Section of the Freight Traffic Department, Seaboard Coast Line Railroad, testified regarding Seaboard Coast Line Railroad Company's traffic

operations and increased expenses and capital investment which Seaboard has incurred in recent years and which have not been recouped by prior rate relief.

Mr. Hartley W. Bird, Jr., Manager of the Research Department, Southern Freight Association, testified regarding statistical and financial data relating to the principal Class I railroads operating in North Carolina. Mr. Bird's exhibits reflected certain system-wide increases in wages, benefits, taxes, materials, fuel, equipment and other costs which he contended had not been used in support of the railroads' general revenue needs in any prior proceeding before this Commission.

Mr. R. A. Robb, Commerce Statistician in the Accounting Department, Office of Assistant Comptroller, Southern Railway Company, testified regarding separation of intrastate and interstate expenses and revenues using the "Luckett Formula" as amended over the years since 1956. Mr. Robb also testified regarding the railroads' net investments in property in North Carolina as allocated to interstate and intrastate.

J. Philip Lee, Rate Specialist and Special Investigator in the Traffic-Transportation Division of the North Carolina Utilities Commission, offered testimony and exhibits on behalf of the Commission Staff concerning the operating revenues, expenses and operating ratios of Class I and Class II railroads operating in the State of North Carolina for the years 1970, 1971, 1972, 1973, 1974 and 1975 based upon the annual reports filed with the Commission by the carriers named in this proceeding.

Based on the testimony given, the exhibits presented, and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. That the respondent rail common carriers participating in the tariff schedules under suspension in this proceeding are subject to regulation by this Commission and are lawfully before the Commission with respect to such rates and charges through representation of the Southern Freight Tariff Bureau.

2. That the respondent railroads have failed to carry their statutory burden of proof to show that the proposed increase in general rates and charges is just and reasonable.

3. That the inputs and methods used in making the separations in this case do not ensure accurate results with any reasonable certainty, and the respondents herein should exert further efforts for improvement in this area.

4. That the Applicants have not provided this Commission with proper information regarding separations of expenses

and revenues for the State of North Carolina nor comparable information on their operations in other states.

Based upon the foregoing Findings of Fact, the Commission now reaches the following

CONCLUSIONS

It is fundamental under the North Carolina utility ratemaking procedure that the party which proposes a change in existing utility rates has the burden of proving that the new or proposed rates are just and reasonable. G.S. 62-75; G.S. 62-134. The ratepayers, in this case the customers and shippers of the railroad, have no burden or duty to prove anything. The existing rates are presumed to be just and reasonable. See Utilities Commission v. Railroad, 267 N.C. 317, 148 S.E. 2d 210 (1966).

This proceeding is a general rate case, which scope was declared under G.S. 62-137 by the Commission's Order issued in this proceeding on April 29, 1976. Accordingly, the respondent railroads are required to use the procedures and methods contained in G.S. 62-133. The respondents are required to show, at a minimum, that the present rates are inadequate and insufficient to compensate them for the cost of providing the service involved and to provide them a reasonable profit. The Commission concludes that the respondents have failed to carry even this minimum burden.

G.S. 62-133 requires the respondents to prove, among other things, the fair value of their property used and useful in providing service to the public in North Carolina, their reasonable test year revenues and expenses (including depreciation) and the fair rate of return which they should be allowed to earn on the fair value of their property. While the Commission feels that the biggest problem with the proof offered by respondents continues to be the separation of intrastate expenses from interstate, the data and testimony offered in these other categories also fall short of what we conclude are the appropriate standards under G.S. 62-133. The Commission notes and wishes to point out deficiencies of proof in the following areas, all of which must be proved in the context of a general rate case such as this:

1. Rate Base. The respondents' entire evidence concerning fair value consists of one sentence in the prefiled testimony of Witness Robb (Tr. p. 63) where he states: "In my opinion, this net investment is equivalent to and in no event greater than the fair value of said property." It does not appear from his background and experience that such an opinion would be within the area of Witness Robb's qualifications. The respondents offered no evidence concerning the replacement cost of their property, either by way of a trended original cost study or any other reasonable method. The respondents' original cost net investment figures, as they relate to North Carolina

intrastate, are the result of a series of approximated calculations based upon the percent of North Carolina track miles to total system track miles and the percent of North Carolina intrastate equated ton miles to total equated ton miles. It was not proved to our satisfaction that the ultimate result of all these calculations had any actual relationship to the "fair value of the public utility's property used and useful in providing the service rendered to the public within this State,..." G.S. 62-133(b)(1).

2. Rate Structure. While the overall rate increase requested is a 7% general, across-the-board increase, so many routes and commodities were exempted from the proposed increase that, even if it were allowed, the proposed rate increase would generate only about 5% in additional annual revenues for the respondents. In response to Staff inquiry, the respondents did produce voluminous tariff sheets reflecting routes and commodities exempted from the proposed increase. However, no attempt was made by the respondents to show that the exemptions were rational, consistent and nondiscriminatory. The Commission is unable to determine, from the evidence offered, whether or not the proposed rate structure would comply with the mandates of G.S. 62-140 which prohibits discrimination in utility rates and services. The risk of such failure to persuade rests with the party having the burden of proof, which in this case is the respondents.

3. Rate of Return. G.S. 62-133(b)(4) sets out three separate tests for determining a fair rate of return. The respondents' evidence on this point was practically nonexistent. There was some evidence as to the total long-term debt of the principal North Carolina railroads and capital investments made during the year 1975 and proposed for 1976. However, there was no evidence at all of the overall capital structure of such railroads and no allocation of such invested capital to North Carolina, either interstate, intrastate or total. Likewise, evidence concerning the embedded cost of long-term debt was not presented and no expert testimony regarding the cost of equity capital to the respondents was offered. Sheet 5 of Hird Appendix A showed the relative standing of the return on net worth earned by all Class I railroads in the United States for the year 1974. However, this exhibit is of dubious probative value concerning the issue of fair rate of return because (a) the figures are now almost two years out-of-date; (b) the figure for Class I railroads is not restricted to respondents herein but would include such companies as the bankrupt Penn Central Railroad; (c) most of the comparisons revealed by the exhibit are to noncomparable, unregulated industries; and (d) the exhibit does not show whether the return earned by Class I railroads for the year in question is too high, too low or just right.

4. Test Year Revenues Under Present and Proposed Rates. The respondents apparently have little or no difficulty in separating intrastate revenues from total system revenues.

By taking bills of lading with origination and destination points in North Carolina, the respondents can specify exactly their minimal intrastate revenues, which according to respondents' Witness Hird amount to 10% of all revenues allocated to North Carolina.

The Commission certainly agrees that all bills of lading with origination and destination points within North Carolina and the revenues derived therefrom are properly includable in test year revenues. The Commission is concerned, however, that no attempt was made to assign a portion of interstate revenues to intrastate traffic because of the "feeder" value of local and branch lines both at origin and destination points.

The respondents suggest that one of the reasons for poor intrastate operating results in this State is the high percent of branch line track miles located here. The Commission believes that if branch lines are to be required to carry their own weight for all expenses allocated to them, some recognition should be given to the contribution which such lines make to overall system revenues. The practical result of the respondents' method of separating revenues is that, on a hypothetical shipment from Asheville to Norfolk, Virginia, or from Elizabeth City to Spartanburg, South Carolina, while almost all of the shipment would take place in North Carolina, no credit to revenues would be given to intrastate traffic.

5. Test Year Expenses. While proof of each of the above items is essential to a general rate case and clearly inadequate in the instant matter, this Commission remains concerned with the inadequate and unreliable methods of separating intrastate expenses from system-wide operations. The Commission is aware that the Luckett Formula has been used in separating intrastate expenses for approximately twenty (20) years and does not object to the use of such a formula when it serves to make a fair and reasonable allocation of expenses to intrastate traffic. It is the calculation of inputs into this formula which particularly bothers the Commission in this case and which, we believe, tends to overstate the expenses allocated to North Carolina intrastate traffic. (See Tr. p. 94)

A portion of this Commission's Final Order in the last general rate increase case filed by these respondents (Docket Nos. R-66, Sub 74 and Sub 75) states as follows:

> "The absence of affirmative evidence presented by the rail common carriers in future cases regarding separation of expenses and revenues among the other states in which the rail common carriers are operating will of necessity leave this Commission with no alternative but to render a decision unfavorable to a rate increase."

In this case, the railroads merely offered to provide the Commission Staff with copies of their annual reports for

1975 which were filed in the other states in the Southern territory in which they operate. They did not, in fact, offer such evidence in an affirmative manner. Further, the respondents conceded (see Robb Testimony, Tr. pp. 105-106) that the Commission would not be able to determine, from these annual reports, the percentage of expenses allocated to interstate and intrastate traffic in each of those other states.

The Commission feels that this information is crucial, not for purposes of investigating respondents' operations in other states, but to test the validity of the separation methods utilized in North Carolina. The work papers to Witness Robb's Exhibit A show a deficit for Southern Railway of $3,478,000 in 1975 for interstate and intrastate operations in North Carolina. At the same time, the net revenues for Southern Railway listed in its 1975 Annual Report, of which the Commission takes judicial notice, amount to $144,833,000. The Commission believes that separation figures for states other than North Carolina, based on procedures used in this State, would, when compared to system-wide net revenues, help to determine the accuracy or inaccuracy of separation methods being utilized. This ground alone would be sufficient, in our view, to deny the proposed rate increase. However, we wish to express our views on some of the other aspects of expense separations which concern us and which, even disregarding allocations of revenues and expenses in other states, would require the Commission to deny the requested increase.

The respondents claim that the specificity possible in separating revenues is not achievable in regard to intrastate expenses. We view the separations problems here as being no more difficult than in the areas of telephone and electric utilities. We are unable to say, from the evidence presented herein, whether or not the result of the respondents' separations procedures causes a subsidy of interstate traffic by intrastate.

These difficulties have persisted since the 1950's when the North Carolina Supreme Court first ruled that this Commission could not rely on system-wide figures in setting intrastate rates. Utilities Commission v. State, 243 N.C. 12, 89 S.E. 2d 727 (1955). In response to this ruling, the respondents devised a method of approximate separations of intrastate expenses. This method, called the Luckett Formula, is still in use today, with very few changes. While the Commission feels that the Luckett Formula, or some variation thereof, is necessary to separate intrastate expenses, the Commission is simply not satisfied that the formula, as presently applied by the respondents, properly and fairly attributes to intrastate operations only those expenses which are solely caused by such operations. We have doubts as to its precision as well. Some specific examples of our doubts are the following:

1. In attributing a portion of system-wide revenues and expenses to North Carolina, the respondents rely on Annual Report Form R-1 without ever giving detailed testimony showing by what manner such revenues and expenses were separated. Thus, we are unable to say that the respondents have met their burden of proof on this issue.

2. In separating individual expense accounts between interstate and intrastate, no real proof is offered that the inputs into such accounts and the methods of separation chosen are correct. The only testimony offered on this point was that of Witness Robb who stated (Tr. p. 82) that "... in my opinion, each operating expense account was separated between interstate and intrastate operations by the use of the statistical element most nearly associated with the expense account." The witness offered no explanation of alternative separation methods which were available and considered and no explanation why the other methods were rejected in favor of those used. In fact, Witness Robb conceded that, under the present inputs used in the Luckett Formula, it is possible that the expenses attributable to North Carolina intrastate traffic were overstated. (Tr. p. 94)

3. Several of the expense accounts were separated on the basis of cars originated and terminated. However, in making this calculation, actual cars originated and terminated were not used. Instead a calculation of the approximate number of cars was made based on the number of tons hauled, divided by an average number of tons per car. In determining the average number of tons per car for Southern Railway, only cars originating in North Carolina were used. This average was 38.5 tons per car. Obviously, a larger average tons per car figure used will result in the fewer number of cars being attributed to intrastate operations. Witness Robb agreed that if, for Southern Railway, he had used only cars terminated, the average number would have been 67.1 tons per car. If he had used merely the average of cars originated and terminated, the average tons per car would have been 58.3. The average for Norfolk Southern Railway, even on cars originating was 53.8 tons per car (terminating only was 62.6 tons per car). No evidence was offered to show how Seaboard Coast Line calculated their number of cars originating and terminating. While Witness Robb felt that the originating figure was more accurate than the terminating figure, he could offer no satisfactory explanation as to why this was true. It should be noted that a publication of the Association of American Railroads indicated the average tons per car for all railroads (including respondents, among others) in the Southern territory was 63.5 tons per car. Thus, under any of these alternative methods, if used, the expenses attributed to intrastate operations would have been far less than those proposed by respondents.

The respondent railroads contended in their application and testimony that the proposed rates are not unjust and

unreasonable, because the Interstate Commerce Commission, based on system-wide operations, has granted a comparable increase for interstate traffic. The railroads thus argue that if the proposed rates are allowed herein "shipper equality" throughout the Southern region will be achieved. Assuming, arguendo, that this would be a meritorious result, the law of North Carolina simply does not recognize the promotion of shipper equality between interstate and intrastate commerce as the controlling standard in fixing rates. See Utilities Commission v. State, supra.

While there are other deficiencies in the respondents' case, we believe that the above recital is sufficient to justify our action in this case. As we have done, without apparent success in the last several railroad rate dockets, we once again admonish the respondents that G.S. 62-75 places upon them the burden of proving that the proposed rates are just and reasonable. Further, we admonish that more justification and explanation will be required in the future to persuade this Commission that the methods of expense separation employed by respondents do not place an unfair portion of system expenses on intrastate traffic and customers.

IT IS, THEREFORE, ORDERED:

(1) That the increases proposed in the tariff schedule designated:

SFTB Tariff of Increased Rates and Charges, X-318, Supplement No. S-6, thereto, in full

be, and the same is hereby, denied.

(2) That the respondent railroads are hereby required to continue in effect the rates presently in force on North Carolina intrastate traffic.

(3) That upon publication of a tariff cancelling the proposed tariff herein denied, effective on one (1) day's notice to the Commission, this matter shall be discontinued and the docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-120, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| Application of the Town of Pineville, North Carolina, for a Certificate of Public Convenience and Necessity to Operate a Telephone Facility in the Area Proposed to be Annexed to the Town of Pineville, North Carolina | ) ) ) ) ) | ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY |

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on April 2 and 3, and July 8, 1975

BEFORE: Commissioner Hugh A. Wells, Presiding at the Hearing on April 2 and 3, 1975; and Commissioners Ben E. Roney and Tenney I. Deane, Jr.

Commissioner Tenney I. Deane, Jr., Presiding at the Hearing on July 8, 1975; and Commissioners Ben E. Roney and George T. Clark, Jr.

APPEARANCES:

For the Applicant:

J. Melville Broughton, Jr., Esq.
Charles P. Wilkins, Esq.
Broughton, Broughton, McConnell & Boxley, P.A.
Post Office Box 2387
Raleigh, North Carolina 27602
Appearing For: The Town of Pineville

Kenneth R. Downs, Esq.
Attorney at Law
1009 Law Building
Charlotte, North Carolina 28202
Appearing For: The Town of Pineville

For the Intervenors:

William E. Underwood, Jr., Esq.
Caudle, Underwood & Kimsey
1020 Johnston Building
Charlotte, North Carolina 28281
Appearing For: Buensod Division Aeronca, Inc.
McJunkin Corporation
Microtron Abrasives, Inc.
Rexham Corporation
Tar Heel Container Corporation
Textile Waste Corporation

For the Commission Staff:

Wilson B. Partin, Jr., Esq.
Maurice W. Horne, Esq.
Assistant Commission Attorneys
North Carolina Utilities Commission
Post Office Box 991
Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding arose out of the enactment of Chapter 372, Session Laws of 1973, which provides:

"Section 1. G.S. 62-3(23) is hereby amended by adding a new paragraph at the end thereof to read as follows:

"f. The term 'Public Utility' shall include the Town of Pineville insofar as said Town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the Town limits as they exist on the date of enactment of this act; and shall also include the area proposed to be annexed under the Town's ordinance adopted May 3, 1971, until January 1, 1975."

"Section 2. The North Carolina Utilities Commission shall grant a franchise to the Town of Pineville for the area within the present Town limits; further, the Utilities Commission shall grant an interim franchise for the area proposed to be annexed, until January 1, 1975, by which time the Town shall apply for a certificate of public convenience and necessity by the North Carolina Utilities Commission upon a showing by the Town of Pineville that it is fit, willing and able to provide adequate telephone services on a continuing basis to meet the needs of said area; provided further, that the Town of Pineville may continue to serve its existing consumers outside of the present corporate limits so long as these consumers desire to have the Town of Pineville's telephone service."

"Section 3. In order to provide a period for the development by the Town of Pineville of records of the kind which may be required by the North Carolina Utilities Commission, the Utilities Commission shall have no authority in respect to the rates or charges for the telephone service supplied by the Town of Pineville to the public for compensation until July 1, 1974."

"Section 4. This act shall be in full force and effect upon ratification."

By Order of October 24, 1973, the Commission granted the Town of Pineville an interim certificate until January 1, 1975, to operate in the area proposed to be annexed. (This same Order granted the Town of Pineville a permanent

certificate of public convenience and necessity to operate in the town limits of Pineville as they existed on May 8, 1973, the effective date of Chapter 372.)

On September 26, 1974, the Town of Pineville, North Carolina, filed an Application with the Commission requesting a Certificate of Public Convenience and Necessity to operate a telephone facility in the area proposed to be annexed by the Town of Pineville. The Application alleged that the Town was fit, willing and able to provide adequate telephone service on a continuing basis to meet the needs of the area proposed to be annexed. This Application, which is the basis of this proceeding, was denominated Docket No. P-120, Sub 1.

On October 21, 1974, a Petition to Intervene in this docket was filed by Buensod Division Aeronca, Inc.; McJunkin Corporation; Microtron Abrasives, Inc.; Rexham Corporation; Tar Heel Container Corporation; and Textile Waste Corporation. The Petitioners alleged that they have their businesses located in the area for which the Town requests a Certificate of Public Convenience and Necessity and that each petitioner received inadequate telephone service from the Town of Pineville. Therefore, the Petitioners opposed any action perpetuating that service and asked the Commission to deny the Town of Pineville a Certificate of Public Convenience and Necessity so that the area in question would be open to Southern Bell Telephone and Telegraph Company and to the Town of Pineville.

Based upon the Application filed in this docket by the Town of Pineville, and upon the Petition to Intervene filed by Buensod Division Aeronca, Inc., and others herein, and upon further consideration of the mandate of the 1973 legislation requiring Pineville to apply for a Certificate to the area in question and to show that it is fit, willing and able to provide continuing telephone service to such area, the Commission was of the opinion that the Application of the Town of Pineville should be set for hearing. An Order setting the hearing was issued on November 13, 1974. The Commission in this Order also allowed the Petition to Intervene and directed the Staff to conduct an investigation into the fitness and ability of the Town of Pineville to provide telephone service to the proposed area. The Commission extended the interim Certificate for the area in question until the Commission had finally determined the matters in this docket.

The Application of the Town of Pineville came on for hearing on April 2, 1975, in the Commission Hearing Room, Raleigh, North Carolina. The Applicant Town of Pineville was present and represented by counsel, as were the Intervenors and the Commission Staff. In support of its Application, the Town of Pineville offered the testimony of the following witnesses: W. F. Blankenship, Jr., Mayor of Pineville and Chairman of the Board of Directors of the Pineville Telephone Company; Jack G. Crump, Town Manager of

the Town of Pineville and Secretary-Treasurer of the Pineville Telephone Company; Kenneth C. Schneider, Manager of the Pineville Telephone Company; R. T. Payne, Consulting Engineer with Mid-South Consulting Engineers, Inc. The Intervenors presented the testimony of the following witnesses concerning the inadequacy of the telephone service which they receive from the Pineville Telephone Company: Robert L. Allsman, Vice President-Manager of Buensod Aeronca, Inc.; Kathey Comer, Switchboard Operator of Rexham Corporation; Janice Trent, Switchboard Operator of Delta Tire Company; John Block, President, Tar Heel Container Corporation; Alan Erb, Plant Manager, Rexham Corporation; and Mary Ward, Switchboard Operator, Tar Heel Container Corporation. The Commission Staff presented the testimony of Gene A. Clemmons, Chief Engineer, Telephone Service Section.

At the conclusion of the hearing, which lasted two days, Chairman Wells requested that Mr. Clemmons, Mr. Payne, Mr. Schneider and Mr. Crump meet as a committee at the earliest possible date and review the problems of the Pineville Telephone Company that were testified to during the hearing. Chairman Wells also ordered that, after the conference was held, the Town of Pineville should submit to the Commission a written report setting forth the Committee's proposals for dealing with the problems of the Pineville Telephone Company. The attorney for the Town of Pineville agreed with the suggestion of Commissioner Wells, and the Committee met to determine the date and place of the Committee meeting. The members of the Committee appointed by Commissioner Wells held their meeting in Pineville on April 14, 15 and 16, 1975. Thereafter on April 25, 1975, the Town of Pineville submitted to Commissioner Wells and to Commissioners Ben E. Roney and Tenney I. Deane, Jr. a copy of the report of the Committee members.

The report filed by the Committee stated that the Committee would meet again during the week of May 26, 1975, in order to review the telephone service in the area proposed to be annexed, to evaluate the effectiveness of the proposals outlined in the Committee report, and to issue a second report to the Commission.

The Commission examined the report filed by the Committee on April 25, 1975, and noted both the proposals set forth therein to provide improved telephone service by the Pineville Telephone Company to its customers in the area proposed to be annexed and the plans of the Committee to review the effectiveness of the proposals set out in the report. The Commission was of the opinion (1) that an Interim Order should issue acknowledging the receipt of the report filed April 25, 1975, and (2) that the Commission should afford the Committee time to review the effectiveness of the proposals and the effectiveness of the Pineville Telephone Company in implementing the proposals. The Commission was further of the opinion that the Pineville Telephone Company should immediately begin implementation of

the proposals set out in the Committee report of April 25, 1975, and that this docket would be held open for the receipt of the second report of the Committee and for further hearing by the Commission.

The Commission, therefore, entered an interim Order on April 29, 1975, which ordered:

"1. That the Pineville Telephone Company begin immediate steps to implement the proposals for improving telephone service in Southland Industrial Park [the area proposed to be annexed], as set out in the Committee report filed by the Town of Pineville on April 25, 1975.

"2. That the Committee, appointed by Chairman Wells at the conclusion of the April 2-3, 1975, hearing, shall continue to meet and review the problems of the Pineville Telephone Company, to review the effectiveness of the Company's implementation of the proposals set out in the Committee report of April 25, 1975, and to report the results of such meetings to the Commission no later than June 1, 1975.

"3. That this docket shall remain open for receipt of further reports from the Committee and for further hearing and final Order by the Commission. Further hearing in this docket is hereby scheduled for Wednesday, July 9, 1975, at 10:00 A.M. in the Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, at which time the Pineville Telephone Company, the Intervenors, and the Commission Staff will be afforded an opportunity to present further evidence and testimony."

The members of the Committee appointed by Chairman Wells held their second meeting in Pineville on May 28 and 29, 1975. On May 30, 1975, the Applicant requested that the time set for filing the second committee report be extended from June 1, 1975, to June 13, 1975, which request was granted by Order of the Commission dated June 2, 1975. The second report of the Committee was submitted to Chairman Marvin R. Wooten, due to the resignation of Commissioner Wells, and to Commissioners Roney and Deane on June 6, 1975. The Committee reviewed the effectiveness of the nine recommendations contained in the Committee report of April 25, 1975. The Committee agreed to meet again on June 26, 1975, in Pineville.

The members of the Committee held their third meeting in Pineville on June 26 and 27, 1975. A third report of the Committee was submitted to Tenney I. Deane, Jr., presiding Commissioner, and to Commissioners Roney and George T. Clark, Jr. when the hearing resumed on July 8, 1975.

By Order dated July 1, 1975, the hearing date was changed from July 9, 1975, to July 8, 1975, at 11:00 a.m.

On July 8, 1975, when the Application of the Town of Pineville came on for further hearing in the Commission Hearing Room, Raleigh, North Carolina, the Applicant Town of Pineville was present and represented by counsel, as were the Intervenors and the Commission Staff. As a result of the resignation of Commissioner Wells, who had presided at the April hearing, all of the parties stipulated that Commissioner Clark could read the record of the entire proceeding and participate in the final decision. In support of its Application the Town of Pineville offered the testimony of the following witnesses: W. F. Blankenship, Jr., Mayor of Pineville and Chairman of the Board of Directors of the Pineville Telephone Company, and Kenneth C. Schneider, Manager and member of the Board of Directors of the Pineville Telephone Company. The Intervenors presented the testimony of the following witnesses: John Block, President, Tar Heel Container Corporation; Robert L. Allsman, Vice President-Manager of Buensod Aeronca, Inc.; Kathey Comer, Switchboard Operator of Bexham Corporation. The Staff presented the testimony of Gene A. Clemmons, Chief Engineer, Telephone Service Section.

At the conclusion of the hearing the Applicant and Intervenors indicated their desire to file recommended Findings of Fact and Conclusions of Law and were allowed thirty (30) days from the mailing of the last transcript.

Recommended Findings of Fact and Conclusions of Law were filed by Applicant on October 17, 1975, and by Intervenors on October 17, 1975.

Based upon thorough and careful consideration of all the evidence adduced in this proceeding as well as the contentions and Findings of Fact and Conclusions of Law submitted by the respective parties herein, the Commission makes the following

## FINDINGS OF FACT

1. The Town of Pineville is a public utility as defined in Chapter 62 of the North Carolina General Statutes and Chapter 372, Session Laws of 1973, which was ratified May 8, 1973, and effective upon ratification, and is a Municipal Corporation existing since 1873 pursuant to Chapter 41 of the Private Laws of 1873, as amended by Private Laws of 1903, Chapter 194, and as amended by Chapter 296 of the Session Laws of 1965. The Town of Pineville is engaged in the business of conveying and transmitting messages and communications by telephone and by other means of transmissions for the public for compensation within its certificated service area within the State of North Carolina and is, therefore, subject to the jurisdiction of this Commission and is properly before the Commission with respect to the subject matter of this proceeding.

2. Chapter 372, Session Laws of 1973 provides as follows:

"Section 1. G.S. 62-3(23) is hereby amended by adding a new paragraph at the end thereof to read as follows:

"f. The term 'Public Utility' shall include the Town of Pineville insofar as said Town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the town limits as they exist on the date of enactment of this act; and shall also include the area proposed to be annexed under the Town's ordinance adopted May 3, 1971, until January 1, 1975.

"Section 2. The North Carolina Utilities Commission shall grant a franchise to the Town of Pineville for the area within the present Town limits; further, the Utilities Commission shall grant an interim franchise for the area proposed to be annexed, until January 1, 1975, by which time the Town shall apply for a certificate of public convenience and necessity to operate in the area proposed to be annexed, and shall be granted such certificate of public convenience and necessity by the North Carolina Utilities Commission upon a showing by the Town of Pineville that it is fit, willing and able to provide adequate telephone services on a continuing basis to meet the needs of said area; provided further, that the Town of Pineville may continue to serve its existing consumers outside of the present corporate limits so long as these consumers desire to have the Town of Pineville's telephone service.

"Section 3. In order to provide a period for the development by the Town of Pineville of records of the kind which may be required by the North Carolina Utilities Commission, the Utilities Commission shall have no authority in respect to the rates or charges for the telephone service supplied by the Town of Pineville to the public for compensation until July 1, 1974.

"Section 4. This act shall be in full force and effect upon ratification.

"In the General Assembly read three times and ratified, this the 8th day of May, 1973."

3. By Order dated October 24, 1974, the Commission pursuant to Chapter 372, Session Laws 1973, granted to Applicant a certificate of public convenience and necessity "to operate in the town limits of Pineville as they existed on May 8, 1973, and further is granted an interim certificate of public convenience and necessity for the area proposed to be annexed to the Town of Pineville until January 1, 1975." The Town was ordered to file an Exchange Service Area Map and a Tariff Schedule with the Commission.

4. By Order dated May 22, 1974, the Exchange Service Area Map filed by the Pineville Telephone Company was approved by the Commission.

5. By Order dated June 24, 1974, the Tariff Schedule filed by the Pineville Telephone Company was approved by the Commission.

6. On September 26, 1974, the Town of Pineville, Mecklenburg County, North Carolina, filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to operate a telephone facility in an area proposed to be annexed by the Town of Pineville.

7. On November 13, 1974, the Commission entered an Order extending the interim franchise granted to the Town of Pineville in the area proposed to be annexed by the Town of Pineville until the Commission has finally determined the matters in this docket.

8. The Application of the Town of Pineville came on for hearing on April 2 and 3, and July 8, 1975.

9. Petitioner purchased its telephone system in 1938 and since that time has continuously provided telephone service to consumers within its city limits, within an area proposed to be annexed to the Town, and within an area surrounding the Town.

10. By Order dated October 28, 1974, and filed October 29, 1974, the Honorable Sam J. Ervin, III, approved the annexation ordinance of the Town of Pineville dated May 3, 1971, as amended by the Governing Board of April 17, 1973, which extended the corporate limits of the Town to include the area as shown in the amended proposed annexation map dated February 26, 1973. The order of Judge Ervin was affirmed by the North Carolina Court of Appeals July 2, 1975, and the Commission takes judicial notice of the fact that the time for petitioning the Supreme Court of North Carolina for certiorari to review the decision of the North Carolina Court of Appeals has expired and no petition has been filed. The area which is the subject of the applicant's petition for a Certificate of Public Convenience and Necessity is therefore within the town limits of the Town of Pineville.

11. The Pineville Telephone Company presently has 1,641 main stations, composed primarily of 624 residential, and 177 one-party business, 246 extension business, 15 pay stations, 296 PABX extensions, 56 PABX trunks, and 6 PABX systems.

12. The Pineville Telephone Company has provided telephone service to each business located in the annexed area since each business was established in the area and presently serves all 19 consumers in the annexed area as follows:

Textile Waste since 1964;
Thermoplastics since 1966;
Delta Buyers since 1966;
Microtron since 1966;
Buensod since 1966;
Buensod Division of Aeronca since 1967;
McJunkin Corporation since 1967;
Fasson Products since 1968;
Goodall Rubber Company since 1969;
George McClancey Company since 1969;
Wing Industries since 1969;
McGraw Edison Company since 1970;
Rexham since 1970;
Tar Heel Containers since 1970;
Milner Air Conditioning since 1971;
Manufacturers Buyers since 1972;
Moldan Corporation since 1973;
Rutland Plastics since 1973;
Vem-Murray Company since 1973.

One other company in the annexed area is Structural Foam which is presently in bankruptcy.

13. The annexed area constitutes 98.972 acres. The number of future consumers anticipated in this area is 4. There are no prospects for growth in the area outside the Town. Inside the Town there is some land available for development and there are three vacant lots in the annexed area.

14. The annexed area provides the Pineville Telephone Company with 54% of its revenues, and 50% of the central office and outside plant is dedicated to use of the businesses in the annexed area.

15. In July of 1974, the Pineville Telephone Company accounts were separated from the Town of Pineville accounts. As of February 28, 1975, the Pineville Telephone Company had $65,837.45 in its checking account. As of April 1, 1975, the company had a certificate of deposit worth $109,605.13; owns land for expansion; and in addition, would have sufficient funds available for capital improvements if necessary. The Town has also received a commitment letter of $1,000,000 from Stromberg-Carlson to enable the Town to enact its master development plan.

16. The Pineville Telephone Company does not have any outstanding debt.

17. The Town of Pineville is authorized to issue general obligation bonds of the town for necessary improvements to the Pineville Telephone Company, if such bond referendum is approved by a vote of the people.

18. The present personnel of the Pineville Telephone Company have the ability to provide preventive and corrective maintenance and service to the customers of the

annexed area on a continuing basis to meet the needs of those customers.

19. The Pineville Telephone Company recognizes the need for an on-going preventive maintenance program and has initiated a more intensive preventive maintenance program. The maintenance program includes not only on-premise equipment in the annexed area but also plant and central office equipment.

20. The Pineville Telephone Company has the central office, the plant, and the equipment to provide the service and the type of equipment that the customers in the annexed area need.

21. The Pineville Telephone Company is available at the request of its customers to provide training to switchboard operators and others in the usage of the telephone equipment.

22. In February, 1975, the Utilities Commission Staff conducted an investigation of the service of the Pineville Telephone Company in the annexed area and concluded that the central office and trunking equipment at the company were operating within Commission objectives, but that the primary source of difficulty which caused complaints of customers was in the on-premise equipment. The Commission Staff further concluded that the priority of the telephone company at the present time should be corrective and preventive maintenance of the customer on-premises equipment and replacement of that equipment if it cannot be made to perform reliably on a continuing basis. Some problems encountered were involved with companies other than the Pineville Telephone Company.

23. The majority of complaints from the Intervenors concerned their on-premises equipment.

24. In recent months prior to the April 2 and 3, 1975, hearing the problems encountered by the Intervenors in the annexed area were not as prevalent and the preventive maintenance program was more apparent.

25. The Commission appointed a Committee, at the conclusion of the April, 1975 hearing, to investigate the service problems of the company and to report back to the Commission its recommendations for improvement. The recommendations made by the Commission Staff and the proposals of the Committee for improving telephone services in the annexed area have been implemented or are in the process of being implemented by the company.

26. Comprehensive testing by the Commission Staff during April, May and June, 1975, showed the Pineville Telephone Company's equipment to be functioning properly in general and repairs, adjustments or replacements were made where necessary.

27. Significant progress has been made toward service improvement in the Pineville area since the April hearing. The Pineville Telephone Company can provide an acceptable level of service to the customers in the annexed area as well as to its other subscribers in the community.

28. All Intervenors who testified at the resumed hearing on July 8, 1975, agreed that the telephone service provided to their businesses in Southland had improved.

29. Further field review by the Commission Staff from time to time and continued preventive maintenance by Pineville will serve to maintain the quality of service on a continuing basis.

Based upon the foregoing Findings of Fact, the Commission makes the following

## CONCLUSIONS

1. The Town of Pineville and the Pineville Telephone Company are financially able to provide adequate telephone service on a continuing basis to meet the needs of the annexed area.

2. The Town of Pineville and the Pineville Telephone Company are fit, willing and able to provide adequate telephone service to the annexed area on a continuing basis and will be able to meet the needs of this area for telephone service as they arise.

3. The Town of Pineville and the Pineville Telephone Company have declared their commitment to provide efficient telephone service to all of the customers of the Pineville Telephone Company, particularly those in the annexed area, and have stated their willingness to take the necessary steps to repair or replace any equipment necessary to achieve this result, including getting the necessary technical assistance when required.

4. The record in this proceeding shows that, prior to the filing of its Application in this docket, the Pineville Telephone Company had not consistently met the needs of its customers in the annexed area. The nature of the businesses in the annexed area requires high quality telephone service with a minimum of service-related problems. The Commission is of the opinion, and so concludes, that the quality of telephone service in the annexed area has been improved to an acceptable level. This improvement is a result of the efforts of the Commission Staff and Pineville Telephone Company, together with the co-operation of the customers in the annexed area. Consequently, the Commission issues its Order approving the Certificate of Public Convenience and Necessity for the annexed area. The Commission, pursuant to its jurisdiction over the quality of service of all regulated utilities, will continue its efforts to insure that the company's level of service will be maintained. The

customers in the annexed area are invited to notify the Commission of any problems that are not satisfactorily resolved by the company. The company will be expected to maintain the level of service commensurate with the needs of the annexed area.

IT IS, THEREFORE, ORDERED:

(1) That the Town of Pineville is hereby granted a Certificate of Public Convenience and Necessity to provide telephone services in the area annexed to the Town of Pineville.

(2) The Pineville Telephone Company shall continue to carry on its preventive and corrective maintenance program in the annexed area and shall continue to implement the recommendations of the Committee for the improvement of telephone service to the annexed area.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of January, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-10, SUB 351

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of<br>Application of Central Telephone Company<br>for an Adjustment of Rates and Charges<br>for Intrastate Telephone Service in<br>North Carolina | ) ORDER GRANTING<br>) INCREASES IN<br>) RATES AND CHARGES |

HEARD IN: The Library of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on December 2, 3, 4 and 5, 1975

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners Ben E. Roney and J. Ward Purrington

APPEARANCES:

For the Applicant:

James M. Kimzey
Kimzey, Mackie & Smith
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina 27602
For: Central Telephone Company

Donald W. Glaves
Ross, Hardies, O'Keefe, Babcock & Parsons
Attorneys at Law
One IBM Plaza
Chicago, Illinois 60611
For: Central Telephone Company

For the Intervenor:

T. W. Graves, Jr.
Secretary and General Counsel
Fieldcrest Mills, Inc.
Stadium Drive
Eden, North Carolina 27288
For: Fieldcrest Mills, Inc.

For the Using and Consuming Public:

Jerry B. Fruitt
Associate Attorney
North Carolina Department of Justice
Raleigh Building
Raleigh, North Carolina 27602

For the Commission Staff:

Wilson B. Partin, Jr.
Assistant Commission Attorney
E. Gregory Stott
Associate Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 28, 1975, Central Telephone Company (hereinafter sometimes referred to as Applicant or Central) filed an Application with the Commission for authority to increase its rates and charges for intrastate local service in North Carolina. In its Application the company alleged that its present rates and charges had been made effective by this Commission on December 3, 1973, and that these present rates and charges were inadequate to enable the company to earn a fair return on its current North Carolina intrastate investment. The Applicant further alleged that it had invested more than $30,000,000 for additions to and improvements of its North Carolina telephone plant between December 31, 1972, and December 31, 1974. The Applicant estimated that it will need to make expenditures for plant of more than $100,000,000 for the five-year period ending December 31, 1979, to meet the public's demand for new and improved service. Without a fair return on its North Carolina investment, Central will not be able to attract the added capital it must obtain to finance the additional facilities necessary to maintain and extend its service. The company requested permission to increase its present rates and charges to produce additional revenues of $5,870,495 (later amended to $5,833,611), based on the level of operations at the year ended December 31,

1974. The Applicant proposed to place the increases into effect on June 27, 1975.

The Commission, on June 16, 1975, being of the opinion that the Application affected the public interest, declared the proceeding a general rate case pursuant to G.S. 62-133, set the matter for hearing on Tuesday, December 2, 1975, required the Applicant to give notice to its customers and the public of the proposed increases, suspended the proposed increases until further Order, and directed the Staff to make an investigation. The Commission's Order also established a test period of the year ending December 31, 1974.

On June 12, 1975, the Attorney General of North Carolina gave notice of intervention in the proceeding. The Commission, by Order of July 11, 1975, recognized the intervention of the Attorney General. On July 30, 1975, Fieldcrest Mills, Inc., of Eden, North Carolina, filed its Petition to Intervene in the proceeding. The Commission on August 4, 1975, allowed the Petition of Fieldcrest to intervene.

On June 24, 1975, the Commission issued its Supplemental Order No. 1 requiring certain additional information from the Applicant. A Supplemental Order No. 2 requiring additional information from Central was issued on July 22, 1975. The company subsequently filed reports and data in response to these Supplemental Orders.

The Commission also received during this period various letters and petitions from the customers of Central expressing their views on the proposed increases.

The Application of Central Telephone Company came on for hearing as scheduled on Tuesday, December 2, 1975. Central offered the testimony of the following witnesses:

(1) Samuel E. Leftwich, Vice President and Division Manager of Central Telephone Company's North Carolina Division, testified on the need of the North Carolina Division for additional revenues, the proposed EAS plan of the company, the proposal to impose mileage or zone charges, and the proposed directory assistance charges.

(2) Dr. Robert S. Stich, Professor of Finance and Business Policy at the University of Missouri at St. Louis, testified on the company's cost of capital and the fair rate of return on the company's property devoted to providing intrastate telephone service in North Carolina.

(3) Baxter Smith, Division Plant Manager of Central Telephone Company, testified on the company's service performance in North Carolina, particularly the results of the company in meeting service objectives imposed by prior Commission Orders.

(4) Vernon L. Rogosch, Director of Rate Planning for Central Telephone Company, testified on the proposed schedule of rates and charges for local intrastate service. He stated that the proposed charges would yield additional annual revenues of $5,833,611. He testified on the company's proposed EAS plan, the imposition of base rate areas or zone charges, the increase from 10 cents to 20 cents for coin telephone charges, and the proposed changes in service charges for directory service assistance.

(5) Martin M. Wandrey, Vice President of Centel Service Company, testified on the operations of Centel and the relationship of Centel to the Centel operating companies.

(6) Paul E. McElroy, Supervisor of Separations and Settlements in the company's Revenue Requirements Department, testified on the company's separations study to determine the intrastate portion of the company's operations.

(7) Keith L. Knudsen, Assistant Secretary of Central Telephone Company, and its Tax Director, testified on the valuation of the company's property in North Carolina intrastate service and the trended original cost study developed by the company.

(8) Kenneth L. Pohlman, Vice President and Secretary-Treasurer of Central Telephone Company, testified on the company's attrition in earnings since the last rate increase in 1973 and on the company's financial and accounting records.

The Commission Staff offered the testimony of the following witnesses:

(1) William E. Carter, Staff Accountant, testified on the test period original cost net investment, revenues, expenses, and return on original cost net investment and common equity.

(2) Vern W. Chase, Chief Engineer of the Telephone Rate Section, testified on the rural zone rates and EAS.

(3) Millard N. Carpenter, Rate Analyst, testified on the company's proposals for changes in rates and regulations, particularly the proposed changes in the relationship between the various categories of service, the company's proposed service charges, and the Staff's proposed service charges schedule.

(4) Hugh L. Gerringer, Staff Telephone Engineer, testified on the apportionment of the company's operations between its interstate and intrastate jurisdiction and the status of the company's intrastate toll settlements with Southern Bell Telephone and Telegraph Company for the test period.

(5) Charles D. Land, Staff Operations Engineer, testified on his recommendation for an adjustment in the company's proposed replacement cost and his recommendation on the company's proposal for directory service charges.

(6) Benjamin R. Turner, Telephone Engineer in the Telephone Service Section of the Engineering Division, testified on his investigation of the telephone service provided by the North Carolina Division of Central Telephone Company.

(7) James S. Compton, Telephone Engineer in the Telephone Service Section, testified on his studies of the company's operations and engineering.

(8) H. Randolph Currin, Jr., Rate Analyst in the Operations Analysis Section of the Engineering Division, testified on the company's cost of capital and its fair rate of return.

(9) Nancy B. Bright, Staff Accountant, testified on the transactions between the North Carolina Division of Central Telephone Company and Central's wholly-owned subsidiary, Centel Service Company.

The Attorney General offered the testimony of Alan Baughcum, an economist with the North Carolina Department of Justice, who testified on the cost of capital to Central and the relationship of that cost to Central's fair rate of return.

The Commission also heard from members of the public who were present on the opening day of the hearing. These witnesses, all of whom were customers of the company, were:

Ms. Virginia Covington, Route 3, King, North Carolina.
Mr. Worth Gentry, Route 1, King, North Carolina.
Ms. Ethel Taylor, Route 4, King, North Carolina.
Mrs. Jeffrey Weavil, Route 1, Germanton, North Carolina.
Mr. Arthur Orrell, Route 1, Germanton, North Carolina.
Mrs. Mary Pegram, Route 1, Germanton, North Carolina.
Ms. Glenda Bowen, Route 1, Pinnacle, North Carolina.
Mr. W. V. Marshall, Route 1, Westfield, North Carolina.
Mrs. W. V. Marshall, Route 1, Westfield, North Carolina.
Mrs. Roy L. Mickey, Route 1, Westfield, North Carolina.
Mrs. Rufus Durham, Route 1, Westfield, North Carolina.
Mrs. Shirley Williams, Route 1, Germanton, North Carolina.
Ms. Carolyn Thomas, Route 1, Germanton, North Carolina.
Ms. Lois Stevens, Route 1, Germanton, North Carolina.
Ms. Lois Davis, Route 1, Westfield, North Carolina.
Ms. Brenda McKinney, Route 1, Westfield, North Carolina.
Mr. Carl W. Ramsay, 313 West Margaret Lane, Hillsborough, North Carolina.

Based on the testimony and exhibits offered at the hearing, the verified Application of the Applicant, and the

Commission's Official Files and Records, the Commission makes the following

FINDINGS OF FACT

(1) Central Telephone Company, a Delaware Corporation, is qualified to do business in North Carolina as a foreign corporation and is engaged in North Carolina in furnishing telephone communications service as a franchised public utility under a Certificate of Public Convenience and Necessity granted by this Commission.

(2) Central Telephone Company has filed Application with the Commission seeking an increase in its rates and charges for intrastate telephone service rendered in North Carolina. The total increases in rates and charges sought by Central would produce approximately $5,833,611 in additional gross annual revenues, based on the test year level of operations. Central last received an increase in its intrastate rates and charges in 1973.

(3) The test year for this proceeding is the 12 months ending December 31, 1974.

(4) The original cost investment of the North Carolina intrastate plant of Central is $109,721,320. The accumulated provision for depreciation is $17,434,361. This original cost intrastate plant of Central includes $1,112,000 of plant that represents excess profits on equipment and supplies purchased from Centel Service Company, the North Carolina division's affiliated supplier. The reasonable original cost less depreciation of Central's plant in intrastate service is $91,174,959.

(5) The reasonable replacement cost less depreciation of Central's intrastate plant in service is $115,142,090.

(6) The reasonable allowance for working capital is $1,590,510.

(7) The fair value of Central's utility plant used and useful in providing intrastate telephone service in North Carolina should be derived from giving equal weighting to the reasonable original cost less depreciation and the reasonable replacement cost less depreciation of Central's utility plant. By this method, using the depreciated original cost of $91,174,959 and the depreciated replacement cost of $115,142,090, the Commission finds that the fair value of the utility plant devoted to intrastate telephone service in North Carolina is $103,158,525. The addition of a reasonable allowance for working capital of $1,590,510 yields a reasonable fair value of Central's intrastate property in service of $104,749,035. This fair value includes a fair value increment of $11,983,566.

(8) The approximate gross revenues net of uncollectibles for Central for the test period are $30,354,856 under

present rates and under company proposed rates would have been $36,150,549 before annualization to year-end revenues.

(9) The level of Central's operating expenses after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $23,615,809, which includes an amount of $4,693,791 for actual investment currently consumed through reasonable actual depreciation, before annualization to year-end level.

(10) The proper annualization factor necessary to restate income after accounting and pro forma adjustments to end-of-period level as required by G.S. 62-133 is .0065.

(11) Central's intrastate net investment in telephone plant in service includes excess profits of $1,112,000 resulting from intercorporate transactions between the North Carolina Division of Central Telephone Company and Central's affiliated supplier, Centel Service Company.

(12) The capital structure of Central's North Carolina intrastate operations at December 31, 1974, reflecting common equity is as follows:

| | Percent |
|---|---|
| Total debt | 43.07% |
| Preferred stock | 7.07% |
| Common equity | 44.83% |
| Cost-free capital | 5.03% |
| | 100.00% |

(13) When the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total debt | 38.14% |
| Preferred Stock | 6.26% |
| Fair value common equity | 51.14% |
| Cost-free capital | 4.46% |
| | 100.00% |

(14) The company's original cost equity ratio is 44.83%, and the fair value common equity ratio is 51.14%.

(15) The company's proper embedded cost of total debt is 7.65%. The proper embedded cost of the company's preferred stock is 6.91%. The fair rate of return which should be applied to the fair value equity is 10.46%. The 10.46% return on fair value equity, and the returns of 7.65% and 6.91% on total debt and preferred stock, respectively, yield a rate of return on Central's fair value property of 8.70%.

(16) Central must be allowed an increase in annual local service revenues of $5,104,906 to allow the company the opportunity, through prudent and efficient management, to

earn the 8.70% return on the fair value of its property. This increased revenue requirement is based upon the fair value of the property, the reasonable test year operating expenses, and the revenues as previously determined.

(17) The overall quality of telephone service provided by Central Telephone Company is adequate.

(18) The charging for directory assistance is an appropriate means of requiring those subscribers who use the local directory assistance service to pay a portion of the costs incurred to provide the service.

(19) The schedule of rates and charges and the service charge tariff set forth in Appendix "A" and "B" attached to this order are found to be just and reasonable, in that the schedule will generate additional annual local service revenues of $5,104,906.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, & 3

The evidence for Findings of Fact Nos. 1, 2 and 3 comes from the verified Application of the company, the testimony and exhibits of Central's witness Leftwich, and the Official File in this docket. These findings are jurisdictional and were not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The Commission will now analyze the testimony and exhibits presented by Company Witness Pohlman and Staff Witness Carter concerning the original cost of Central's intrastate telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

| Item | Company Witness Pohlman | Staff Witness Carter |
|---|---|---|
| Investment in telephone plant in service | $109,721,320 | $109,721,320 |
| Additional plant necessary to adopt Company's proposed Optional Extended Area Service plan | 110,000 | |
| Total investment | 109,831,320 | 109,721,320 |
| Less: Accumulated provision for depreciation | 17,607,734 | 17,434,361 |
| Excess profits on plant purchased from Centel Service Company | | 1,112,000 |
| Net investment in telephone plant in service | $ 92,223,586 | $ 91,174,959 |

As the above chart shows, both witnesses agree that the original cost of the intrastate telephone plant in service is $109,721,320. The first item of contention between the witnesses is an adjustment made by Witness Pohlman increasing investment in telephone plant in service by $110,000 for the additional plant which would be necessary should the Company's proposed Optional Extended Area Service Plan be adopted. As the Commission has found that it would not be reasonable to adopt the Company's proposed Optional Extended Area Service plan, we now conclude that the adjustment for additional plant to implement this plan is unnecessary. Accordingly, we will exclude the $110,000 amount from the net investment in telephone plant in service.

Both witnesses agree that depreciation reserve should be included as a deduction in calculating the net investment in telephone plant in service. The witnesses do not agree, however, on the proper amount to be deducted. Company Witness Pohlman contended that it is necessary to reflect the annual depreciation on the investment in telephones served at December 31, 1974, as the depreciation expense for the test period and that a corollary adjustment to depreciation reserve should be made in this same amount. Mr. Pohlman testified that he used a station growth factor to bring the operations to a going level at the end of the test period; but that, in itself, is not adequate when a Company, such as Central, is investing in plant and facilities at a much higher rate than that of the growth in telephones served. He stated that if the investment per telephone remained constant, depreciation would be properly stated for rate-making purposes if it were calculated on the average amount of telephone plant recorded on the books during the test period. However, in his opinion, this expense deserves special consideration when setting rates in order to give recognition to the attrition of earnings caused by the ever increasing investment per telephone. On cross-examination Mr. Pohlman admitted that local service revenues were also increasing faster than growth in telephones and should help offset the attrition caused by the investment per telephone increasing faster than the growth in the number of telephones.

Staff Witness Carter testified that he did not agree with the Company's method of "picking and choosing" certain items to annualize on a basis different from all other items. He stated that the purpose of using an annualization factor is to bring net operating income to an end-of-period level. He testified that it is reasonable to expect certain items of revenues, expenses, depreciation, and taxes to increase faster than the rate used to annualize net operating income, and other items to increase slower than the rate used to annualize net operating income, but overall the annualization factor is a good average to apply to net operating income. Mr. Carter, in his testimony, illustrated that, as an example, local service revenue for the month of December 1974 multiplied by twelve would result in annual

revenues of $105,940 greater than actual local service revenues for 1974 increased by the annualization factor, which would more than offset the $99,165 difference in interstate depreciation expense obtained by multiplying the plant balances at the end of the test year by the appropriate depreciation rates than by increasing actual depreciation expense by the annualization factor. Accordingly, Staff Witness Carter did not make a separate adjustment to depreciation expense, since he applied the annualization factor to net operating income to bring all items of revenue, expense, depreciation and taxes to an end-of-period level. Mr. Carter also made the corollary adjustment increasing depreciation reserve by an amount equal to the test year depreciation expense multiplied by the annualization factor.

The Commission concludes from the evidence presented that it would not be proper to annualize depreciation expense on a basis other than the annualization factor. Consequently, the Commission concludes that the adjustment made by Staff Witness Carter to the depreciation reserve is reasonable and that the proper amount to be included as the intrastate depreciation reserve is $17,434,361.

The last item of difference in the net investment in telephone plant in service presented by the witnesses is an adjustment of $1,112,000 made by Staff Witness Carter to eliminate the excess profits on plant purchased by Central from Centel Service Company. The Commission has found in Finding of Fact No. 11 that there exists in the plant accounts of Central Telephone Company $1,112,000 of excess profits on plant purchased from Centel Service Company. Therefore, the Commission now concludes that Mr. Carter's adjustment reducing Central's net investment in telephone plant in service by this amount is proper.

Based on all the testimony and evidence in this case, the Commission concludes that the reasonable original cost depreciated of Central's telephone plant in service is $91,174,959.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Although the term "replacement cost" envisions replacing utility plant in accordance with modern design techniques and with the most up-to-date changes in the state of the art of telephony, trended original cost as presented by Central envisions and is founded upon the premise of the duplication of plant as is, with inefficiencies and outmoded design included. Even though normal obsolescence can be accounted for in proper depreciation treatment, the economies of scale inherent in telecommunications (e.g., employing one 600 pair conductor cable down a road versus six 100 pair cables installed over a number of years) are not fully recognized in the trending process. Nevertheless, the Commission concludes that the trended original cost as proposed by the company for the purported value of the replacement cost

represents some evidence on the replacement cost of the plant in service. 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.

Company witness Knudsen testified on the net replacement cost new of Central's intrastate plant in service. This witness testified that his definition of replacement cost as used in his study is the cost obtained by trending the depreciated original cost of property to current price levels. Replacement cost determined by the trending methods restates the investment in the existing plant in terms of current price levels, taking into consideration that a portion of the original investment has been recovered by depreciation expense. He testified that his trending method gives proper recognition to any loss of service value which has occurred since the telephone plant in North Carolina was originally constructed. Company witness Knudsen testified that the replacement cost of the company's intrastate properties as of December 31, 1974, was $129,166,310. This includes telephone plant in service replacement cost of $128,044,250, and materials, supplies and working capital of $1,393,157.

Mr. Knudsen stated that the organization, franchises and land accounts were used at original cost and not trended. The Handy-Whitman index was used for the buildings, underground conduit and buried cable accounts. The office equipment and vehicles accounts were trended using Bureau of Labor Statistics indices. The remainder of the accounts were trended from actual cost data. The indices for each account were multiplied by the surviving investment dollars in each vintage year. The book depreciation reserve was then increased by the same percentage that original cost was increased to produce trended cost. This "trended" depreciation reserve was then subtracted from trended cost to arrive at replacement cost less depreciation.

Commission Staff witness Charles Land testified that he disagreed with the company's treatment of depreciation reserves. He stated that the company's method understated trended depreciation reserves because, due to system growth, surviving plant in a trending study is predominantly of recent vintage and is paired with low trend factors, whereas depreciation reserves relate primarily to older plant where high trend factors apply. Mr. Land recalculated the company's trended cost using a condition percent unit summation method. He stated that the depreciated intrastate trended cost was $116,254,090. Mr. Land also testified that the replacement cost should have the same weight in calculating fair value that stockholder equity has in the company's original cost capital structure since only stockholders and not debt holders can be compensated for inflation. The company argued, in rebuttal, that Mr. Land failed to consider salvage and that the unit summation method was inappropriate. Mr. Land stated that

consideration of salvage as a separate entity did not materially affect his results. He also stated that the unit summation method of estimating condition percent, while not accepted for calculating depreciation rates, was appropriate for estimating the remaining usefulness of the surviving plant; that to use the average life method, as proposed by witness Knudsen, would cause past premature retirements to inflate today's net trended cost.

In Finding of Fact No. 4 we concluded that Central's rate base should be reduced by $1,112,000 because of excess profits earned by its affiliate, Centel Service Company, on sales to North Carolina operations. To be precise, this amount should be trended by appropriate trend factors and subtracted from replacement cost. However, due to the fairly recent vintage of the plant to which said excess profits are attributable, we are of the opinion that the effect of trending the $1,112,000 amount would be de minimis. Therefore, we conclude that the trended cost of $116,254,090 should be reduced by $1,112,000 and that the reasonable replacement cost depreciated is $115,142,090.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Staff Witness Carter and Company Witness Pohlman each presented a different amount for the working capital allowance.

Company Witness Pohlman testified that he used as the working capital allowance the North Carolina intrastate amount of material and supplies at December 31, 1974, of $1,393,157. He stated that he did not use an allowance for cash working capital on the theory that accrued taxes would offset this requirement.

Staff Witness Carter presented a working capital allowance of $1,607,365 consisting of material and supplies, a cash allowance of one-twelfth of operating expenses excluding depreciation and taxes, average prepayments and compensating bank balances, less average tax accruals, and end-of-period customer deposits.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Carter should be used in this case. The allowance for working capital will be determined by adding end-of-period material and supplies, cash equal to one-twelfth of operating expenses excluding depreciation and taxes, average prepayments, and compensating bank balances, less average tax accruals and end-of-period customer deposits. Using this method for the calculation, the Commission concludes that a reasonable allowance for working capital is $1,590,510.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

G.S. 62-133(b)(1) provides that:

"In fixing such rates, the Commission shall:

(1) Ascertain the fair value of the public utility's property used and useful in providing the services 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."

Upon consideration of the original cost and the replacement cost, and the Commission's conclusions in regard thereto set forth hereinabove, and the testimony of the witnesses in this proceeding relating to this issue, the Commission concludes that equal weighting should be given to original cost and replacement cost depreciated, and that the fair value of Central's intrastate utility plant used and useful in providing service to its subscribers is $103,158,525. The Commission further finds and concludes that the reasonable fair value of Central's intrastate property (fair value plant plus working capital) in service is $104,749,035.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Company Witness Pohlman, Staff Witness Carter, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer testified specifically concerning the separations procedures employed by the company to separate its operating revenues and expenses between jurisdictions. Mr. Pohlman and Mr. Carter testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments.

Mr. Pohlman testified that the appropriate level of intrastate operating revenues before annualization is $30,098,864. Mr. Carter testified that he used Mr. Pohlman's adjusted balance as a starting point for making several of his own adjustments in arriving at $30,354,856 as the proper level of intrastate operating revenues.

The first item of revenue difference of $48,080 is caused by adjustments each witness made to increase per books toll revenues to actual toll revenues. The Company's adjustment was $48,080 higher than the Staff's adjustment of $218,010 due to the inclusion of out-of-period revenues in the per book amount. The Commission concludes that Staff Witness Carter's net adjustment amount of $218,010 is proper and

that intrastate toll operating revenues per books should be increased by this amount.

The next difference in toll revenue concerns the appropriate method of dealing with the intrastate toll rate increase which went into effect on July 1, 1975. Staff Witness Gerringer presented testimony that any proforming of the effect of the toll rate increase into the rate case test period should be based on the difference between the present overall intrastate toll settlement rate of return adjusted for the projected effect of the toll rate increase and the overall 7.78% rate of return used by the Company for the test period. Using this method, Mr. Gerringer computed the increase in intrastate toll revenues due to the increase in the intrastate toll rates to be $308,422. The Company did not make any adjustment to intrastate toll revenues due to the increase in intrastate toll rates and did not present any testimony on the subject.

Based on the evidence presented by the witnesses, the Commission concludes that an adjustment should be made increasing intrastate toll revenues by $308,422 ($306,430 after de-annualization) to reflect the increase in intrastate toll rates as of July 1, 1975.

A difference of $25,512 in the amounts presented by the witnesses as intrastate operating revenues is reflected in an adjustment made by Witness Carter to include in the test period advertising revenues which were recorded in 1973 but were applicable to 1974. Witness Pohlman agreed on cross examination that this adjustment increasing intrastate revenues by $25,512 should be made.

The Commission concludes from the testimony and the evidence presented that Witness Carter's adjustment increasing advertising revenues by $25,512 is proper.

Each of the witnesses made an adjustment increasing toll revenues for the intrastate toll revenue effects of increases and decreases in expenses and rate base items which he proposed. Though the amounts proposed by the witnesses differ due to differences in the expense and rate base adjustments each proposed, the two witnesses agree as to methodology.

The Commission has set forth in Evidence and Conclusions for Findings of Fact Nos. 4 and 9 the adjustments which it found proper in arriving at net investment in telephone plant in service and operating expenses. The Commission concludes that the $130,044 increase in toll revenue proposed by Witness Carter would be proper and consistent with the adjustments found proper by this Commission which increase or decrease intrastate toll investment and expenses. This represents a decrease of $26,419 from the amount of $156,463 proposed by Company Witness Pohlman.

The remaining difference of $1,451 in the amounts proposed by the witnesses for intrastate operating revenues relates to the amounts each witness included as uncollectible revenue. Both Mr. Carter and Mr. Pohlman increased uncollectible revenue to reflect the uncollectible portion of their revenue adjustments.

The Commission concludes that having adopted all of Witness Carter's revenue adjustments, it is also proper to adopt Witness Carter's intrastate uncollectible revenue amount of $(55,851).

The Commission, therefore, concludes that the proper level of test year operating revenue is $30,354,656.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company Witness Pohlman and Staff Witness Carter presented testimony and exhibits showing the level of intrastate operating expenses they believed should be used by the Commission for the purpose of fixing Central Telephone Company's rates in this proceeding.

The following chart shows the amount contended for by each witness:

| | Company Witness Pohlman | Staff Witness Carter |
|---|---|---|
| Operating expenses | $11,855,046 | $12,238,208 |
| Depreciation and amortization | 4,854,936 | 4,693,791 |
| Taxes - other than income | 3,373,339 | 3,329,838 |
| Income taxes - state and federal | 3,416,108 | 3,482,786 |
| Interest on customer deposits | - | 2,657 |
| Total operating expenses before annualization | $23,499,429 | $23,747,280 |

The first item causing a difference in the amounts proposed for operating expenses as set forth above is an adjustment made by Staff Witness Carter to include as operating expenses Chambers of Commerce, Merchants Association, and Credit Bureau dues. Witness Pohlman had excluded these expenses in the amount of $3,069.

The Commission concludes that Chamber of Commerce, Merchants Association, and Credit Bureau dues of $3,069 should be included as operating expenses.

Witness Carter and Witness Pohlman proposed different amounts for the normalization adjustment due to wage and salary increases made effective as of various dates within the test period or January 1, 1975. Witness Pohlman included an intrastate adjustment of $306,664 based upon the number of employees on the payroll at the time of the increases.

Witness Carter calculated his pro forma adjustment to 1974 wages of $67,674 based on the average number of employees for the nine months ended September 30, 1975. Mr. Carter testified that the company's number of employees since the end of the test period has declined. On cross-examination, Mr. Carter stated that he thought it proper to base the adjustment to 1974 wages on the average employees for 1975. He further testified that since the Commission is setting rates for the future, the level of salaries and wages which will be in effect when these rates are established is the proper level of salaries and wages to be included in determining the cost of providing telephone service.

The Commission concludes from the evidence and testimony presented that it is proper to base the 1974 wage and salary adjustment on the average number of employees for the nine months ending September 30, 1975, since the number of employees has substantially decreased since the end of the test period and rates are being set for the future. Therefore, the Commission concludes that the adjustment made by Staff Witness Carter increasing book intrastate salary and wage expense by $67,674 is proper.

Another of the items causing the difference in the amounts proposed by the witness for operating expenses relates to an adjustment made by Witness Carter to normalize salary and wage expense due to wage increases which will be effective during 1975. Mr. Carter testified that his adjustment increasing wage expense by $629,284 is a reasonable method of recognizing that attrition is occurring. He stated that the 1975 wage increase is a known contributor to attrition in earnings. The Company did not make an adjustment for the 1975 wage increase.

The Commission concludes from the evidence presented that Witness Carter's adjustment increasing salary and wage expense by $629,284 is a proper method of recognizing that attrition is occurring. Also, including the wage increases which will be effective during 1975 along with adjusting for the decrease in employees during 1974 and 1975 has the effect of including as a cost of service the approximate number of employees and level of salaries which should be experienced during 1976, the period when the rates approved in this proceeding will be effective. Accordingly, the Commission concludes that salary and wage expense should be increased by $629,284.

The remaining difference of $10,201 relates to an adjustment made by Witness Carter to exclude from operating expenses excess profits on maintenance materials purchased by Central from Centel Service Company.

Since the Commission has found the profits of Centel Service Company on sales of materials and supplies to Central Telephone Company to be excessive, the Commission also finds that Witness Carter's adjustment of $10,201 to

exclude excess profits on maintenance materials purchased from Centel Service Company is proper.

There is one additional decrease in operating expenses which must be made. Staff Witness Land testified as to the cost reduction which Central may expect by charging for directory assistance calls. Since the Commission is setting rates based on charging for these calls, the Commission also finds that the cost reduction of $200,954 as testified to by Witness Land should be considered as a further reduction in operating expenses.

Based on the foregoing discussion the Commission concludes the proper level of operating expenses before annualization is $12,037,254.

The difference in the levels proposed by the witnesses for depreciation and amortization is caused by two factors. First, Witness Pohlman made an adjustment of $99,165 increasing depreciation expense by the difference between the actual calculation of end-of-period depreciation expense based on end-of-period plant and the amount obtained by increasing actual depreciation expense by the annualization factor. The Commission discussed the evidence and testimony of the two witnesses concerning this adjustment in Evidence and Conclusions for Finding of Fact No. 4. Consistent with its decision in Evidence and Conclusions for Finding of Fact No. 4 the Commission concludes that the company adjustment increasing depreciation expense by $99,165 is not proper.

The remaining difference of $61,980 is caused by an adjustment made by Witness Carter to eliminate depreciation expense recorded on excess profits on plant purchased from Centel Service Company. Based on the Commission decision in Evidence and Conclusions for Finding of Fact No. 11 that the profits of Centel Service Company on sales to Central which generated more than a 15% return on equity were excessive, the Commission now concludes that the depreciation expense recorded on these excess profits should be eliminated in the amount of $61,980.

Based on the foregoing discussion the Commission concludes that the proper level of depreciation before annualization is $4,693,791.

Four adjustments made by the witnesses explain the net difference of $43,501 between the amounts proposed by each for taxes other than income. Witness Pohlman made an adjustment increasing property tax expense by $89,054 to reflect the difference in a full year's property taxes on the plant in service at December 31, 1974, and the actual property tax expense plus the amount produced by the station growth factor. Mr. Pohlman testified that he annualized property tax expense in this manner for the same reasons that he annualized depreciation expense using this method. As with depreciation expense, Mr. Carter did not agree with Mr. Pohlman's annualization adjustment.

The evidence and testimony for this adjustment being the same as the evidence and testimony for Mr. Pohlman's depreciation reserve adjustment, the Commission has previously discussed this subject in Evidence and Conclusions for Finding of Fact No. 4. Therefore, based on its previous decision, the Commission now concludes that Witness Pohlman's adjustment increasing property tax expense by $89,054 is not proper.

A difference of $13,719 in the amounts proposed by the witnesses for taxes other than income is due to adjustments made by each to increase FICA tax expense for the FICA taxes associated with the normalization of the 1974 wage increases. The Commission has found Mr. Carter's adjustment for the 1974 wage increase to be proper and therefore finds Mr. Carter's adjustment increasing FICA taxes by $6,011 to be proper.

Mr. Carter also made an adjustment increasing FICA tax expense by $36,207 due to his pro forma adjustment for the annual effect of wage increases granted during 1975. Since the Commission has found that it is proper to include the 1975 wage increases as operating expenses, we also conclude that it is proper to include in taxes other than income the FICA taxes applicable to that wage increase. Therefore the Commission will increase taxes other than income by $36,207.

The last difference in the amounts proposed by Mr. Pohlman and Mr. Carter for taxes other than income is due to adjustments made by each to include gross receipts tax on operating revenue adjustments. Consistent with its conclusions that Mr. Carter's adjustments to revenue were proper, the Commission now concludes that Mr. Carter's adjustment increasing the book intrastate gross receipts tax by $36,367 is appropriate.

Based on the previous discussion of taxes other than income the Commission concludes that the proper level to be included in the test year is $3,329,838.

The level of federal and state income taxes properly includable in a test year is a function of actual income plus the effects of any adjustments which increase or decrease the level of actual test year income for rate-making purposes.

Witness Carter explained in his testimony that federal and state income taxes should be reduced by $10,569 to provide for the income tax effects associated with the pro forma increase in pension costs and payroll taxes capitalized. He testified that for income tax purposes, the company deducts all pension costs and payroll taxes, including those capitalized; therefore, the reduction in income taxes should not be limited to the effect of those items charged to expense, but should include the effect of the total increase in pension costs and payroll taxes. Mr. Pohlman adjusted for the income tax effect of the pro forma increase in

pension costs and payroll taxes charged to expense; however, no provision was made for the related income tax effects of pension costs and payroll taxes capitalized. The Commission concludes, based on the evidence presented by Company Witness Pohlman and Staff Witness Carter, that the decrease of $10,569 in state and federal income taxes is proper.

The next item causing a difference in the level of income taxes presented by the witnesses is an adjustment made by Witness Carter increasing state and federal tax expense by $44,202 for the income tax effects of an interest allocation adjustment. Mr. Carter explained that the increase in income taxes is necessary in order to reflect the tax effects of the difference in interest cost shown on Carter Exhibit 1, Schedule 1, and the interest expense used by the company in computing the test period federal and state income tax expense.

The Commission concludes that the theory of Witness Carter's adjustment is proper. However, since the Commission has used a different capital structure and rate base than the ones presented by Witness Carter, the interest expense allocation adjustment must be recalculated using the Commission's capital structure and rate base. After making the change in the capital structure and rate base, the Commission finds that the increase in federal and state income taxes to reflect the income tax effects of the interest expense allocation adjustment should be $10,957.

The remaining difference in the amounts proposed by the witnesses for federal and state income tax expense is caused by adjustments made by both witnesses to increase or decrease tax expense due to previous adjustments each had made to revenue and expenses. The Commission concludes that it would be proper to include the income tax effects associated with each adjustment heretofore found proper. The Commission will, therefore, increase federal and state tax expense by $113,040.

Based on the foregoing discussion the Commission concludes that the proper level of federal and state income taxes before annualization is $3,552,269.

Staff Witness Carter proposed to include interest on customer deposits in operating expenses. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the company will recover its cost of these funds and no more.

Based on all the testimony and evidence presented in this case the Commission concludes that the proper level of total operating expenses before the annualization which should be used in the fixing of rates is $23,615,809.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company Witness Pohlman recommended an adjustment factor of .0217 to raise the actual income for the test period to a going level as of the end of the test period. The adjustment factor was based on the increase of end-of-period total stations over average total stations during the test period.

Staff Witness Carter recommended an adjustment factor of .0065 based on the increase of end-of-period primary stations over average primary stations during the test period. Mr. Carter testified that an annualization factor based on primary stations is a more reasonable factor to use since primary telephones are the basic revenue producing units as well as account for the great majority of expenses and plant investment. Also primary telephones are the measurement used for determining exchange rate groupings.

Based on the testimony and evidence presented, the Commission concludes that the annualization factor should be based on primary stations. The Commission therefore concludes that the annualization factor of .0065 as calculated by Staff Witness Carter is proper.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company Witness Wandrey and Staff Witness Bright presented testimony on the transactions between Central Telephone Company and its wholly owned subsidiary Centel Service Company.

Company Witness Wandrey testified that Centel's pricing policy on its sales to affiliated operating telephone companies is as follows:

> "It is the policy of Centel Service Company to distribute and sell materials to System operating companies at prices which are equal to or less than those which the operating companies would have to pay for the same or comparable material from other reputable and dependable distributors". (Vol. II, P. 166 Transcript).

Company Witness Wandrey stated that Centel Service Company determines the prices it charges by maintaining constant surveillance of prices charged by other distributors of materials sold to independent telephone companies.

> "From time to time, as prices fluctuate, Centel Service Company adjusts its prices to assure that the pricing policy previously stated is adhered to on a continuing basis". (Volume II, P. 167, Transcript).

Mr. Wandrey acknowledged on cross examination, as he did in the previous Central general rate case Docket No. P-10, Sub 338 (1973), that Centel follows as a policy when possible to track the prices charged by Automatic Electric

Company to its non-affiliated customers for telephone equipment and supplies.*

*The Commission notes its decision in Docket No. P-19, Sub 158 (April 4, 1975), the Application of General Telephone Company of the Southeast for Authority to Increase its Rates and Charges in its North Carolina Service Area, wherein the Commission found that the transfer prices charged to the N.C. Division of GenTel by its affiliated supplier Automatic Electric were "unreasonably high."

Witness Wandrey presented no evidence concerning Centel's costs of doing business with its affiliated customers including the North Carolina Division of Central Telephone Company. Staff Witness Bright made both a preliminary review of the transactions between Centel Service Company and Central Telephone Company and a detailed analysis of certain financial ratios of Centel Service Company in comparison with comparable independent electrical wholesale distributors.

Witness Bright testified that Centel Service Company is a distributor of telephone equipment and supplies to the affiliated telephone operating companies of Central Telephone and Utilities Corporation, including the North Carolina Division of Central Telephone Company. Centel Service Company has no manufacturing facilities; its only function is to make purchases from various manufacturers of telephone equipment and supplies and resell to the affiliated telephone operating companies. In fact, Centel sells only to its affiliated companies and not to any non-affiliated companies. Of Centel's total sales in 1974, 62.63 percent was shipped directly from the manufacturer to the purchasing operating company. In essence, Centel acted as a broker on 62.63 percent of its total sales in 1974.

Ms. Bright testified that since Central Telephone Company owns 100% of the stock in Centel Service Company it is necessary to study the transactions between the two in order to determine whether or not the transactions occurred at arm's-length bargaining in spite of the less than arm's-length relationship which exists between the two parties.

First, Witness Bright reviewed the dollar volume of sales purchased by Central's North Carolina Division from Centel Service Company. During the eight-year period since Centel began operations (1967-1974) the North Carolina Division of Central purchased approximately 55.65% of its total purchases of equipment and supplies from Centel. The ratios by year were as follows:

| 1967 | 1968 | 1969 | 1970 | 1971 | 1972 | 1973 | 1974 |
|---|---|---|---|---|---|---|---|
| 14.15 | 49.63 | 53.35 | 47.91 | 48.17 | 59.88 | 72.95 | 73.75 |

Company Witness Wandrey testified under cross-examination that, of the items which Central purchased from a source

other than Centel in 1974, the majority were items of central office equipment which Centel Service Company does not sell.

Second, Witness Bright reviewed the return on average shareholder equity achieved by Centel Service Company since its inception through 1974. The returns (%) were as follows:

| 1967 | 1968 | 1969 | 1970 | 1971 | 1972 | 1973 | 1974 |
|---|---|---|---|---|---|---|---|
| 340.73 | 609.84 | 114.49 | 96.18 | 114.02 | 88.77 | 54.68 | 38.13 |

Next, Staff Witness Bright performed a comparable earnings test to determine whether or not the earnings achieved by Centel Service Company were reasonable. This test was performed by comparing the supplier affiliate's earnings on equity to that of other similar supply companies that are not affiliated with a major customer. Since there were no significant unaffiliated wholesalers of only telephone equipment for which financial information was available, Ms. Bright selected for comparison electrical equipment wholesalers of a size comparable to Centel Service Company from the Electrical Wholesaling magazine. The weighted average earnings on equity for the years 1967 through 1974 for the independent wholesale companies ranged from 7.17% to 15.10%. The weighted average return on equity for Centel Service Company for the years 1967 through 1974 was 189.35%. From this comparison the Commission finds that Centel has been able to consistently achieve a higher return on common equity from sales to its affiliated interests than the independent companies were able to achieve from sales in the competitive market.

In order to determine if there are any economies of operation accruing to Centel Service Company because it is affiliated with its customers, Ms. Bright analyzed several financial ratios of the four independent wholesalers used in the comparative earnings test and Centel Service Company.

The first ratio presented by Ms. Bright was gross margin. Gross margin measures the average percentage which the supplier adds to his cost of goods before sale to his customers. Centel's average markup or gross margin for the years 1967 through 1974 was 17.25% as compared to the margins of the four independents of 15.5|%, 21.03%, 22.36%, and 22.58%. The amount of markup included in the price of Centel's merchandise was somewhat less than three of the four independents even though Centel's returns on equity were much higher than the independents.

Operating expenses as a percentage of sales give a concise view of the percent of net sales dollars which are expended by a firm for selling, administrative, and general expenses. As Ms. Bright testified, Centel's operating expenses as a percentage of sales averaged only 2.10% for the period 1967

through 1974, while the independents' averaged from 10.04% to 14.87%.

Ms. Bright testified that the four independent wholesalers had average asset turnover ratios of 2.76 to 3.94 during the period studied, while Centel's average sales to asset ratio was 7.96. These figures indicate that Centel requires fewer dollars of asset investment to generate a dollar of sales than do the independent wholesalers.

The sales to average inventory ratio is a measure of the amount of inventory investment required per dollar of sales. Witness Bright testified that in all years except 1970 and 1971 Centel's sales/inventory ratio was not significantly different from the independents although a large percentage of its sales are shipped directly from manufacturers to the purchasing telephone operating company.

Witness Bright also testified concerning the ratio of average accounts receivable as a percentage of sales for Centel and the independent wholesalers. A low ratio is more desirable since a high accounts receivable balance is costly in terms of billing, collection, and carrying charges. Centel's average accounts receivable/sales ratio was only 1.64 for the study period in comparison to the independents which averaged from a low of 9.60 to a high of 14.28. Centel's only customers are members of the Central Telephone System; therefore, Centel does not encounter the difficulty in collection of receivables that is faced by the independent wholesalers.

Witness Bright's study of average accounts payable as a percentage of sales indicates that Centel is able to pay its creditors much more rapidly than the comparable independent wholesalers and thereby receive any discounts available for early payment. The rapid collection of receivables would make early payment to creditors possible.

Ms. Bright testified that Centel's inherent operating efficiencies are illustrated by the return on sales and return on equity ratios. Centel's return on sales averaged 5.95% for the seven years 1968 through 1974 as compared to 1.56%, 1.61%, 1.79%, and 2.54% for the independent electrical wholesalers. Since 1967 Centel has averaged 89.35% return on year-end common equity. The independent electrical wholesalers averaged from a low of 7.17% to a high of 15.10%.

Witness Bright testified that with the exception of sales/inventory, each of the ratios studied tended to show that Centel is able to operate with fewer expenses and a smaller investment than the independent companies. As an affiliate of the Central Telephone System, Centel enjoys a captive market, reduced selling expenses, rapid collection of accounts receivable with no appreciable risk of noncollection, a smaller investment than an independent, and reduced handling costs due to the fact that a substantial

percentage of the operating telephone company's purchases are shipped direct by the manufacturer and are not handled by the affiliated supplier.

Witness Bright further testified that the effect of Centel selling at "market" prices is to sell at a price designed to cover operating expenses at a level paid by a non-affiliated distributor. Since Centel Service Company enjoys reduced operating expenses due to its affiliation with its customers, selling at "market" results in Centel achieving earnings far in excess of the independent wholesalers.

Witness Bright testified that limiting the earnings of Centel Service Company to the highest return achieved during the period by the comparable independent wholesale distributors would in effect recognize the economies of operation which Centel enjoys because of its affiliation with its market and would flow a part of these economies back to the operating telephone companies which make up that market. The effect of limiting Centel to the return earned by non-affiliated distributors is to recognize Centel's actual level of expense and to allow as the cost of equity the highest average return earned by the comparable independent distributors.

Witness Bright stated that if a 15% return on common equity, the highest return earned by the independent electric wholesalers, was included as a fair and reasonable rate of return for Centel Service Company to earn on sales to Central Telephone Company, there would exist in the plant accounts of the North Carolina Division of Central Telephone Company as of December 31, 1974 net of depreciation $1,309,000 of excess profits, $1,112,000 of which is related to the Company's North Carolina intrastate operations.

Based on the evidence presented by the witnesses, the Commission concludes that the transfer prices paid for telephone equipment and supplies by the North Carolina Division of Central Telephone Company to the supply affiliate of Central Telephone Company (Centel Service Company) have been unreasonable and excessive to the extent they produce a return on the common equity of the supply affiliate in excess of 15%.

The Commission concludes that Centel Service Company enjoys economies of operation which are a result of its close affiliation with its customers. Further, the policy of tracking prices charged by Automatic Electric Company to non-affiliated independent telephone companies has resulted in Centel Service Company recovering costs for selling, general, and administrative expenses from the North Carolina Division of Central Telephone Company which it has not actually incurred. The reduced operating cost of the supply company occurs as a result of its affiliation with its market, the operating telephone companies of the Central System. The Commission believes it to be fair and reasonable to permit the supply affiliate to include in

transfer prices charged the North Carolina Division of Central Telephone Company a level of profit equal to that achieved on sales in the competitive market by comparable electrical wholesale distributors.

The Commission concludes that the applicant's net investment in intrastate telephone plant in service should be adjusted to exclude "excess profits" surviving in the net plant accounts at December 31, 1974, in the amount of $1,112,000. The adjustment is based on limiting the earnings of the supply affiliate to the 15% return on common equity which is the highest return achieved in the competitive market by any of the comparable electrical wholesale suppliers.

On cross examination Staff Witness Currin stated that on the surface it would appear that, if the Commission should decide to eliminate the excess profits of the service company, it would also be proper to eliminate that portion of the deferred taxes (cost-free capital) which is attributable to those profits. The Commission has considered this question and concludes that based on the method which Staff Witness Bright used to calculate the excess profits amount, there is no reason to make an adjustment to cost free capital. Staff Witness Bright made the calculation of the excess profits based on the net profit (after income taxes) of the supply affiliate. Therefore, the full amount of income tax expense was left in the sales price of the equipment and supplies purchased by the operating telephone company, and it is proper that the full amount of these taxes be passed back to the telephone operating company and treated as deferred taxes and cost free capital.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12-16

The Commission adopts the capital structure presented by company witness Stich, which was the company's actual capital structure as of December 31, 1974. This capital structure reflects book common equity of $41,586,670.

The capital structure set out in Finding of Fact No. 13 represents a capital structure in which the fair value increment of $11,983,566 has been added to the book common equity of $41,586,670. This capital structure, which shows the fair value equity of the company, is reasonable and is adopted by the Commission to determine the cost of the company's fair value equity.

The company testified that its test year embedded cost rate for long-term debt was 7.44%. There was evidence that the company experienced borrowing during 1975 at a higher cost rate. The Commission finds and concludes that the debt embedded cost rate for ratemaking purposes should reflect increased borrowing costs. Accordingly, the Commission adopts a cost rate of 7.65%.

All three rate of return witnesses agreed that the cost of preferred stock was 6.91%, and the Commission finds and concludes the same. Company witness Stich recommended a return on equity of 14% to 15%, based on his study of price-earnings ratios, market-to-book ratios, and the historical returns on equity of "comparable" companies, plus a consideration of the general economic climate.

Company witness LeBlanc testified as to his perceptions of the supply and demand for capital, the impact of inflation on same, the demand for "quality" stocks, and the relationship of these factors to Central in particular. He concluded that, as a minimum, Central required the 14% - 15% return on equity recommended by Company witness Stich.

Staff witness Currin recommended a return on equity of 13.38% to 13.64%, based upon his application of the double leverage theory to Central and its parent company. The cost of equity to Central's parent was calculated using the Discounted Cash Flow formula.

Baughcum, the Attorney General's witness, also used the Discounted Cash Flow and double leverage formulae to estimate the cost of equity to Central. Using a different time-frame and growth estimation technique, he recommended a return on equity of 12.35%. Baughcum also tendered evidence that a "Bare Rent Theory" calculation tended to support his primary calculation.

The Commission finds and concludes that Central's cost of common equity is 13.00%.

The Commission must also take into account the company's fair value increment of $11,983,566 and the effect of adding this increment to the book equity component of the company's capital structure. In so doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel Utilities, et al. v. Duke Power Co., 285 N.C. 277 (1974), wherein it is stated:

> "...the capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share,

over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration, in its findings on rate of return, the reduction in risk to Central's equity holders and the protection against inflation which is afforded by the addition of the $11,983,566 fair value increment to the book equity component. Considering the current investment market and Central's expansion and upgrading of service to its ratepayers, the Commission concludes that a rate of return of 10.46% on fair value equity, including both book equity and the fair value increment, is fair and reasonable. The actual dollar return yielded by the rate of return of 10.46% on the fair value equity will yield a rate of return of 13.47% on book common equity, reflecting the incremental dollars added for fair value.

The Commission has considered the tests laid down by G.S. 62-133(b)(4). The Commission concludes that the rates herein allowed should enable the company to attract sufficient debt and equity capital in order to discharge its obligations and achieve and maintain a high level of service to the public. The Commission cannot, of course, guarantee that the company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the company will be able to reach that level of return through efficient management.

The following schedules show the derivation and application of the findings hereinabove and are to be incorporated as part of those findings.

CENTRAL TELEPHONE COMPANY
DOCKET NO. P-10, SUB 351
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1974

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $ 20,470,541 | $5,104,906 | $ 25,575,447 |
| Toll service | 9,067,165 | | 9,067,165 |
| Miscellaneous | 973,001 | | 973,001 |
| Uncollectibles | (155,851) | (33,182) | (189,033) |
| Total operating revenues | 30,354,856 | 5,071,724 | 35,426,580 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 5,253,453 | | 5,253,453 |
| Traffic expenses | 1,805,318 | | 1,805,318 |
| Commercial expenses | 2,457,982 | | 2,457,982 |
| General office salaries and expenses and other expenses | 2,520,501 | | 2,520,501 |
| Total operating expenses | 12,037,254 | | 12,037,254 |
| Depreciation and amortization | 4,693,791 | | 4,693,791 |
| Taxes other than income | 3,329,838 | 304,303 | 3,634,141 |
| Income taxes - state and federal | 1,682,429 | 2,437,106 | 4,119,535 |
| Deferred income taxes and investment tax credit | 1,869,840 | | 1,869,840 |
| Total operating revenue deductions | 23,613,152 | 2,741,409 | 26,354,561 |
| Net operating revenues | 6,741,704 | 2,330,315 | 9,072,019 |
| Less: Interest on customer deposits | 2,657 | | 2,657 |
| Add: Annualization adjustment - .65% | 43,804 | | 43,804 |
| Net operating income for return | $ 6,782,851 | $2,330,315 | $ 9,113,166 |

| | | |
|---|---|---|
| **Investment in Telephone Plant** | | |
| Telephone plant in service | $109,721,320 | $109,721,320 |
| Less: Accumulated provision for depreciation | 17,434,361 | 17,434,361 |
| Excess profits earned by Centel Service Company | 1,112,000 | 1,112,000 |
| Net investment in telephone plant in service | 91,174,959 | 91,174,959 |
| **Allowance for Working Capital** | | |
| Material and supplies | 1,393,157 | 1,393,157 |
| Cash | 1,009,848 | 1,009,848 |
| Average prepayments | 65,913 | 65,913 |
| Compensating bank balance | 328,319 | 328,319 |
| Less: Average operating tax accruals | 1,122,413 | 1,122,413 |
| Customer deposits | 84,314 | 84,314 |
| Total allowance for working capital | 1,590,510 | 1,590,510 |
| Net investment in telephone plant in service plus allowance for working capital | $ 92,765,469 | $ 92,765,469 |
| Fair Value rate base | $104,749,035 | $104,749,035 |
| Rate of return on fair value rate base | 6.48% | 8.70% |

CENTRAL TELEPHONE COMPANY
DOCKET NO. P-10, SUB 351
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED DECEMBER 31, 1974

| Capitalization | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Total Debt | $ 39,954,087 | 38.14 | 7.65 | $3,056,488 |
| Preferred stock | 6,558,519 | 6.26 | 6.91 | 453,194 |
| Common Equity | | | | |
| Book $41,586,760 | | | | |
| Fair Value Increment $11,983,566 | 53,570,326 | 51.14 | 6.11 | 3,273,169 |
| Cost-free capital | 4,666,103 | 4.46 | - | - |
| Total | $104,749,035 | 100.00 | | $6,782,851 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $ 39,954,087 | 38.14 | 7.65 | $3,056,488 |
| Preferred stock | 6,558,519 | 6.26 | 6.91 | 453,194 |
| Common Equity | | | | |
| Book $41,586,760 | | | | |
| Fair Value Increment $11,983,566 | 53,570,326 | 51.14 | 10.46 | 5,603,484 |
| Cost-free capital | 4,666,103 | 4.46 | - | - |
| Total | $104,749,035 | 100.00 | | $9,113,166 |

| | | |
|---|---|---|
| Required Net Increase for Return ($9,113,166 - $6,782,851) | | $2,330,315 |
| Associated Increase in Taxes Other than Income | $ 304,303 | |
| Associated Increase in Income Taxes | 2,437,106 | |
| Associated Increase in Revenue Deductions | | 2,741,409 |
| Required Increase in Total Operating Revenues | | 5,071,724 |
| Associated Uncollectibles | | 33,182 |
| Required Increase in Gross Operating Revenues | | $5,104,906 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The evidence as to the quality of service being provided by Central Telephone Company consists of the testimony of Company Witness Smith, Staff Witness Turner, and 17 public witnesses.

Company Witness Smith testified as to the Company's programs for providing good service. He further testified as to the Company's action in response to the service problems identified by Staff Witness Turner. Mr. Smith spoke of the Company's plans to establish a group to review and update the present controlled maintenance programs. He also stated that the Company plans construction to reduce the number of held orders in the Eden District.

Staff Witness Turner testified concerning the Staff's investigation and evaluation of the quality of telephone service provided by Central. Mr. Turner concluded that the results of the field testing indicated that the Company overall is within the Commission's service objective; however, the results also indicated certain exchanges and districts which failed to meet the objectives. He further concluded that the Company needs to improve trouble report handling and give special attention to the districts which are lagging behind in installation service results. He also stated that the Company's overall regrade activity is acceptable; however, the number of held orders for regrade in the Eden District is not within the objective. The Company should take immediate action to bring the number of held orders for regrade in the Eden District within the objective.

The seventeen (17) public witnesses who testified concerning the quality of their service indicated their desire to have expanded EAS service. Seven (7) of the witnesses stated that they desired better service but did not speak to any particular service problem. Five (5) of the witnesses indicated that they had experienced trouble such as not being able to get a telephone operator, DDD service problems, ANI failures and billing problems. Two (2) of the witnesses indicated a desire to regrade their service to single party.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Central is adequate. However, certain service problems were testified to by the Commission Staff witness and the public witnesses.

Central should proceed to implement their plans and programs for further service improvements as testified to in the hearing and should correct those service problems testified to by the Staff witness and the public witnesses.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Company witness Rogosch proposed that Central subscribers be charged for inquiries to directory assistance (D.A.). He recommended an allowance of three free calls monthly, a charge of 20¢ per call in excess of that allowance, and one free home area code toll D.A. call (an inquiry for a number in the same area code as the calling subscriber but not in his toll free calling area) for each sent paid toll call appearing on the subscriber's bill. Mr. Rogosch proposed that pay stations, hotel, motel and hospital guest trunks, and services furnished for handicapped persons be exempted from D. A. charges.

Commission staff witness Charles Land presented a slightly different proposal for D.A. charging. He recommended that the Commission adopt the same plan for Central that had been approved for Carolina Telephone and Telegraph Company. That plan imposes a charge of 20¢ per call for all D.A. calls (local and toll) within the home area code (without any credits for toll calls) after an allowance of five (5) free calls monthly. Only pay station users would be exempted from D.A. charges. Mr. Land explained that, compared to Central's proposed plan, his plan would (1) be easier to understand, (2) require less administrative and billing expense, and (3) be more feasible for some other independents because of their computer limitations. Mr. Land testified that uniformity among all companies charging for D.A. is important to avoid subscriber confusion and to make inter-company contracts and settlements simpler. He further stated that he knew of no evidence that there would be any suppression of toll D.A. but that toll suppression should be watched and, if realized, the D.A. charging plan altered to correct the problem.

(Under both the staff and Central proposals, no charges would be applicable to D.A. calls for numbers located out of state or in a foreign area code.)

Witness Land also testified that the principal purpose of a charging plan for directory assistance would be to deter the excessive use of the service made by a few subscribers while permitting the limited number of calls that are necessary because the telephone number desired is not in the local directory. He stated that the cost savings from reduced directory assistance calling should be much greater than expected revenues.

Mr. Land testified that the cost of directory assistance to Central equates to approximately 4|¢ per main station per month during the test period, which is presently recovered from basic local exchange rates. He further stated that during this period 9.3% of the company's main stations originated 58% of all of the inquiries to directory assistance, while 87.5% of the company's subscribers originated 5 or less calls each per month and were responsible for less than 33% of all of the inquiries that were made to directory assistance.

Mr. Land and Mr. Rogosch both stated that 70% of the requests for directory assistance were for numbers that were listed in the current telephone directory. When a charge is imposed for directory assistance, Mr. Land estimated that a 70% reduction in directory assistance calls should be expected.

Mr. Land's exhibits showed that a 70% reduction in directory assistance calls based on his proposed tariff would result in a cost savings to Central of $2|7,289 and new revenues of $|09,3|9.

Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific services used. It is unquestionable that a vast number of unnecessary calls are made for information that is readily available or can be made readily available on an ongoing basis. This practice is a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to maintain telephone service. An estimated reduction of 60% to 70% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the firm opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that a five (5) free call monthly allowance will adequately provide for the reasonable needs of nearly all subscribers and that a charge of 20¢ for each local directory assistance request in excess of five (5) monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home numbering area.

The Commission is of the opinion that a 70% reduction in local directory assistance calling may reasonably be expected. This would result in a cost savings of $200,954 and increased revenues of $73,417 as shown in Land Exhibit 1, which the Commission has considered in determining the revenue requirements for Central.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from D.A. charges. Central is being ordered herein to collect data on the use of this exemption to enable the Commission, at the end of the experimental period for D.A. charging, to fully evaluate the needs of and uses made by handicapped individuals concerning directory assistance services.

The Commission recognizes that a uniform, statewide D.A. charging plan is ultimately desirable and that the D.A. charging plans approved for Central (herein) and Southern Bell differ from the one approved for Carolina Telephone and Telegraph Company. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Mr. Samuel E. Leftwich, Vice President and Division Manager of Central's North Carolina Division, testified as to the company proposed optional extended area service (EAS) plan, expressing a desire that if the Commission would not approve applicant's EAS plan, his company would prefer the Commission to approve the same EAS plan that was approved for Carolina Telephone and Telegraph Company during October 1975; he advocated the reestablishment of rural zone charges to slow down the upgrading of service to lessen capital requirements; and proposed a charge for excessive calls to

directory assistance, and an increase in service (installation, moves and changes) charges to a level which would enable the recovery of more of the cost of providing these services.

Mr. Vernon L. Rogosch, Director of Rate Planning for Applicant, supported Mr. Leftwich in more detail as to rate design and in addition proposed other changes in rates and charges to produce the additional revenue requirements of Applicant. Mr. Rogosch advocates the increasing of local coin telephone calls from 10¢ to 20¢, the elimination of semipublic guarantees and the establishment of a flat rate for this service, the reduction of coin commissions paid on public pay stations, a residence package offering to include extensions telephones, a key telephone packaging plan, the increasing of rates and charges for PBX service, and other general exchange tariff items.

Mr. Rogosch in support of his rate design contended that the EAS proposal would offer the subscribers of those exchanges having EAS the option of paying an EAS additive to receive full time one way (outward) EAS and, if a subscriber did not elect to take this option, would have the privilege of placing toll calls to the EAS points at a reduced toll charge. Regarding local coin telephone messages, he testified that the 10¢ rate was established in 1952 and was not now adequate to costs which have risen dramatically. Both the semipublic station rate proposal and the key system packaging will simplify the understanding and administration of these services.

Mr. Millard N. Carpenter, III, Rate Analyst of the Commission Staff, suggested that the key trunk rate be held to 1.25 times the individual line rate and, in lieu of a rotary line charge for other rotary lines, that Central establish a rotary non-key line rate to individual line rate ratio of 1.1 to 1. He also proposed a revision of applicant's service charge schedule to cause it to be more cost-related to the service rendered, which would primarily separate a premise visit from service ordering and central office work from outside line work. He advocated uniform service charges for the regulated telephone companies in North Carolina, a 20¢ charge for local coin telephone messages, a flat rate for semipublic telephone service, a residence package, a key system packaging, and a proposal that at least coin telephone commissions should not be increased.

Mr. Vern W. Chase, Chief Engineer of the Commission Telephone Rate Section, testified regarding rural zone charges and extended area service. He opposed the Company's plan to reestablish rural zone charges, citing the Commission's long standing policy to reduce and finally eliminate these charges, which he wholly supports. Regarding extended area service, he pointed out that it was impracticable to use the proposed plan for consideration of future extended area service situations; that the plan was

too costly; and that to allow the heavy users to have the option to take the service at a flat rate, while those not taking the service could obtain toll service to the EAS points at reduced rates, was unfair, not only among Applicant's subscribers but also to all North Carolina intrastate users in that if discounted toll is to be allowed between certain points, it should be made available between all intrastate points. He discussed the method as to the rating of the extended area service plan approved for Carolina Telephone and Telegraph Company, which Mr. Leftwich referred to, and testified that he believed the plan had merit but had no strong feelings that it should or should not be approved for Central.

Based upon the foregoing testimony and the exhibits in support thereof, the Commission reaches the following conclusions with regard to the rate structure design to be approved for Central Telephone Company.

(1) Basic Rate Schedule:

(a) The Commission concludes that the present rate schedule should be revised to equalize the ratios between business individual line rates and residential individual line rates. The final ratio between B-1 and R-1 should be approximately 2.5 to 1, a level which the Commission, in its discretion, believes to be just and reasonable.

(b) The Commission concludes that the present rate group limits should be revised in order to aid the implementation of a new extended area service plan.

(c) Service Whose Rates Are Related To Basic Service. The Commission concludes that rates for individual lines arranged for rotary service should be adjusted to more accurately reflect relative value for service and relative costs and that the rotary charge for key system trunks should be replaced by a rate of 1.25% of the applicable individual line rate, and that for non-key rotary lines a charge of $2.50 as proposed by applicant should be allowed. Further, that inward only PBX trunks should be charged for at the same rate as other PBX trunks.

(d) The Commission concludes that rates for services which are related to basic exchange service rates should be adjusted in accordance with adjustments in basic exchange service rates.

(2) Coin Telephone Service:

The Commission concludes that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been numerous increases in the cost of providing this service and that the charge has not been increased for over 20 years. Because of the desire to alleviate further increases on basic service, it is concluded that the local coin call increase is necessary at this time. It is further concluded that the commissions paid to property owners on local coin telephone receipts should be eliminated as proposed by applicant.

(3) Service Charges:

The Commission concludes that Central Telephone's service charges should be increased to a level which more closely approximates the level of costs involved in doing the work, and the charges applicable for each request should depend on the actual work functions involved. The increased charges should be implemented using the format, with slight modifications, proposed by Staff Witness Carpenter.

(4) Supplemental Services and Equipment:

The Commission concludes that the provision of supplemental services and equipment should not result in a burden upon subscribers to basic service and that the rates should be set accordingly.

(5) Rural Zone Charges:

The Commission concludes that zone charges should not be reestablished in line with the Commission's long standing policy of reducing and eliminating these discriminatory charges.

(6) Extended Area Service:

The Commission concludes that Applicant's EAS plan should not be approved and in lieu thereof that the Carolina Telephone and Telegraph Company plan should be approved for applicant.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Central Telephone Company be, and hereby is, authorized to increase its North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $5,104,906 based upon stations and operations as of December 31, 1974, as hereinafter set forth in Appendix "A"*.

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendix "A" hereto attached, which will produce additional gross revenues of $5,104,906 from said end of test period customers be, and are hereby, approved to be charged and implemented by Central Telephone Company, effective on service to be rendered on and after February 3, 1976, except as noted hereinafter.

3. That Central shall file, within 7 days of this Order, the necessary revised tariffs reflecting the above increases, decreases and regulations, said tariffs to be effective as of the dates prescribed above.

4. That Central shall file with the Commission on or before April 15, 1976, the service charge tariff attached hereto as Appendix "B"*, with proposed service charges that will approximately offset the revenues produced by the current service charge tariff in effect as a result of this order and with full explanation of how the current and proposed revenues were determined. The proposed tariffs are to be filed with a proposed effective date of June 1, 1976.

5. That Central is authorized to begin directory assistance charges in accordance with Appendix "A" attached to this order after March 15, 1976 and after the NOTICE attached as Appendix "C"* is given to its subscribers. That Central shall, before March 15, 1976, mail, as a bill insert or direct mailing, the "NOTICE" attached as Appendix "C", page 1 to all 919 area subscribers, and page 2 to all 704 area subscribers and shall commencing April 15, 1976, mail as a bill insert the "REMINDER" attached as Appendix "C", page 1 to all 919 area subscribers and page 2 to all 704 area subscribers. Should the company be unable to initiate directory assistance charges on March 15, 1976, it should so advise the Commission and make appropriate changes in the dates in the "NOTICE", the "REMINDER" and the mailing dates given hereinabove.

6. That Central shall file for Commission approval the information it proposes to place in its telephone directories relating to directory assistance charges including the format and location within the directory.

7. That Central shall file monthly reports on the conversion of coin paystations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

8. That Central shall offer the option to residential applicants or subscribers to pay for service charges (installation, moves, changes, etc.) where the total exceeds $15.00 in two equal payments over the first two billing

periods after service work is completed unless applicant is a known credit risk to the company.

9. That Central shall provide for one representative month each quarter for the four quarters in 1976, a report showing:

(a) The number and percent of subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100 and 100+ local D.A. inquiries per line per month.

(b) The number and percent of local directory assistance inquiries placed by subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100 and 100+ local D.A. calls per month.

(c) The number of Home Numbering Plan Area toll D.A. inquiries per month.

(d) The monthly number of local directory assistance inquiries from paystations.

(e) For exempted services furnished for handicapped individuals, the same data requested as in (a) and (b) above.

(f) The number and percent of subscribers billed for directory assistance inquiries.

(g) The revenue billed for directory assistance inquiries.

(h) A general report indicating the date(s) of implementation of directory assistance charges, complaints received, and problems encountered (i.e. traffic, accounting, billing, adjustments, etc.).

(i) The percent and amount of reduction in traffic expense over or under what was estimated for the same month had directory assistance charges not been in effect.

The above data should be based on actual experience for one representative month of the quarter and should be received by the Commission no later than the last day of the month following the end of the quarter.

10. That Central shall implement the plans and programs testified to in this proceeding and bring the service to the objective levels as required by the Commission. The Commission Staff shall follow up on the company's program in taking the action necessary to bring the service to the required levels.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
CENTRAL TELEPHONE COMPANY
DOCKET P-10, SUB 351

EXCHANGE RATE GROUPS

| | | Monthly Flat Rates | | | | | |
|---|---|---|---|---|---|---|---|
| | | Business | | | Residence | | |
| Group | Main Stations and Equivalents | 1-Pty. | 2-Pty. | 4-Pty. | 1-Pty. | 2-Pty. | 4-Pty. |
| 1 | 0-1000 | 21.30 | 19.30 | 18.80 | 8.40 | 7.40 | 7.15 |
| 2 | 1001-1400 | 21.80 | 19.80 | 19.30 | 8.60 | 7.60 | 7.35 |
| 3 | 1401-2000 | 22.30 | 20.30 | 19.80 | 8.80 | 7.80 | 7.55 |
| 4 | 2001-2800 | 22.80 | 20.80 | 20.30 | 9.00 | 8.00 | 7.75 |
| 5 | 2801-4000 | 23.30 | 21.30 | 20.80 | 9.20 | 8.20 | 7.95 |
| 6 | 4001-5600 | 23.80 | 21.80 | 21.30 | 9.40 | 8.40 | 8.15 |
| 7 | 5601-8000 | 24.30 | 22.30 | 21.80 | 9.60 | 8.60 | 8.35 |
| 8 | 8001-11200 | 24.80 | 22.80 | 22.30 | 9.80 | 8.80 | 8.55 |
| 9 | 11201-16000 | 25.30 | 23.30 | 22.80 | 10.00 | 9.00 | 8.75 |
| 10 | 16001-22400 | 25.80 | 23.80 | 23.30 | 10.20 | 9.20 | 8.95 |
| 11 | 22401-32000 | 26.30 | 24.30 | 23.80 | 10.40 | 9.40 | 9.15 |
| 12 | 32001-44800 | 26.80 | 24.80 | 24.30 | 10.60 | 9.60 | 9.35 |
| 13 | 44801-64000 | 27.30 | 25.30 | 24.80 | 10.80 | 9.80 | 9.55 |
| 14 | 64001-89600 | 27.80 | 25.80 | 25.30 | 11.00 | 10.00 | 9.75 |
| 15 | 89601-128000 | 28.30 | 26.30 | 25.80 | 11.20 | 10.20 | 9.95 |

Rates not applicable in exchanges where service is not offered.

| Exchange | Applicable Local Exchange Rate Group | Applicable Extended Area Service Component |
|---|---|---|
| Asheboro | 10 | $ .90 |
| Bethlehem | 11 | 1.40 |
| Biscoe | 7 | 1.15 |
| Boonville | 9 | 1.45 |
| Candor | 7 | 1.25 |
| Catawba | 9 | 1.05 |
| Danbury | 5 | .85 |
| Dobson | 10 | 1.50 |
| Eden | 10 | .95 |
| Elkin | 8 | 1.05 |
| Granite Falls | 11 | 1.15 |
| Hays | 9 | 1.40 |
| Hickory | 12 | .95 |
| Hildetran | 11 | .95 |
| Hillsborough | 5 | - |
| Madison | 7 | .60 |

| | | |
|---|---|---|
| Mocksville | 7 | 1.00 |
| Mount Airy | 9 | 1.00 |
| Mount Gilead | 7 | 1.20 |
| Mountain View | 12 | 1.60 |
| Mulberry | 9 | 1.40 |
| North Wilkesboro | 9 | 1.00 |
| Pilot Mountain | 9 | 1.45 |
| Prospect Hill | 11 | 1.45 |
| Quaker Gap | 7 | 1.00 |
| Ramseur | 9 | 1.05 |
| Roaring Gap | 5 | 1.15 |
| Roxboro | 8 | .35 |
| Sandy Ridge | 7 | 1.00 |
| Seagrove | 9 | 1.05 |
| Sherrills Ford | 9 | 1.35 |
| State Road | 8 | 1.35 |
| Stoneville | 7 | .95 |
| Timberlake | 8 | .95 |
| Troy | 7 | 1.10 |
| Valdese | 10 | .85 |
| Walkertown | 14 | 1.20 |
| Walnut Cove | 5 | .70 |
| West End | 10 | 1.80 |
| West Jefferson | 7 | 1.05 |
| Yadkinville | 7 | 1.20 |
| Yanceyville | 6 | 1.05 |

* See official file for the complete Appendix "A" and "B" and "C."

DOCKET NO. P-10, SUB 351

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Central Telephone Company for an )
Adjustment of Rates and Charges for Intrastate ) ERRATA
Telephone Service in North Carolina ) ORDER

BY THE COMMISSION: On February 3, 1976, the Commission issued its Order Granting Increases in Rates and Charges in the above captioned docket. It has come to the Commission's attention that certain errors appear in "Appendix A" of said Order. The Commission is of the opinion that the errors contained in "Appendix A" of said Order should be corrected.

IT IS, THEREFORE, ORDERED:

1. That the group number in line 2 of column 1 on page 1 of said "Appendix A" be corrected to read 2.

2. That the headings "Business" and "Residence" under Monthly Flat Rates at the top of page 1 of said "Appendix A" be interchanged.

3. That the tariff code for PBX Trunk Touch Call Line in line 6 of column 1 on page 11 of said "Appendix A" be changed to read 7984.

4. That the two sheets attached to this order be substituted for those originally attached to the order of February 3, 1976, to reflect said corrections.

5. That in all other respects, the Commission's Order of February 3, 1976, in this docket shall be and remain in full force and effect as written.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of February, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
CENTRAL TELEPHONE COMPANY
DOCKET P-10, SUB 351

EXCHANGE RATE GROUPS

| | | Monthly Flat Rates | | | | | |
|---|---|---|---|---|---|---|---|
| | | Business | | | Residence | | |
| Group | Main Stations and Equivalents | 1-Pty. | 2-Pty. | 4-Pty. | 1-Pty. | 2-Pty. | 4-Pty. |
| 1 | 0-1000 | 21.30 | 19.30 | 18.80 | 8.40 | 7.40 | 7.15 |
| 2 | 1001-1400 | 21.80 | 19.80 | 19.30 | 8.60 | 7.60 | 7.35 |
| 3 | 1401-2000 | 22.30 | 20.30 | 19.80 | 8.80 | 7.80 | 7.55 |
| 4 | 2001-2800 | 22.80 | 20.80 | 20.30 | 9.00 | 8.00 | 7.75 |
| 5 | 2801-4000 | 23.30 | 21.30 | 20.80 | 9.20 | 8.20 | 7.95 |
| 6 | 4001-5600 | 23.80 | 21.80 | 21.30 | 9.40 | 8.40 | 8.15 |
| 7 | 5601-8000 | 24.30 | 22.30 | 21.80 | 9.60 | 8.60 | 8.35 |
| 8 | 8001-11200 | 24.80 | 22.80 | 22.30 | 9.80 | 8.80 | 8.55 |
| 9 | 11201-16000 | 25.30 | 23.30 | 22.80 | 10.00 | 9.00 | 8.75 |
| 10 | 16001-22400 | 25.80 | 23.80 | 23.30 | 10.20 | 9.20 | 8.95 |
| 11 | 22401-32000 | 26.30 | 24.30 | 23.80 | 10.40 | 9.40 | 9.15 |
| 12 | 32001-44800 | 26.80 | 24.80 | 24.30 | 10.60 | 9.60 | 9.35 |
| 13 | 44801-64000 | 27.30 | 25.30 | 24.80 | 10.80 | 9.80 | 9.55 |
| 14 | 64001-89600 | 27.80 | 25.80 | 25.30 | 11.00 | 10.00 | 9.75 |
| 15 | 89601-128000 | 28.30 | 26.30 | 25.80 | 11.20 | 10.20 | 9.95 |

Rates not applicable in exchanges where service is not offered.

## OTHER LINE SERVICES

| Service | Relationship With Basic Rate |
|---|---|
| Key Trunk, two-way | |
| Business | 1.25 times the Business one-party rate |
| Residence | 1.25 times the Residence one-party rate |
| PBX Trunk, two-way, one way and all others | |
| Business | 2.0 times the Business one-party rate |
| Residence | 2.0 times the Residence one-party rate |

| | | |
|---|---|---|
| 2909 | Ringback & Override Control | 7.00 |
| 2912 | Toll Denial | 7.00 |
| 2914 | Paging Access Trunk | 3.50 |
| 2916 | Touch Calling Feature | 30.00 |
| 2917 | Touch Calling Feature | 60.00 |
| 7984 | PBX Trunk Touch Call Line | 3.70 |
| 7909 | Special Billing | 3.00 |
| 7970 | Audichron Type STM-100 | 180.00 |
| 7976 | Line Equipments Announcement Lines | - |
| 7969 | Subscriber Transfer Arrangement | 5.00 |
| | Audichron Per 1000 Call | 1.00 |
| 7501 | Rotary Line Service | 2.50 |
| 1199 | Business Extension Stations | 2.15 |
| 7991 | Illuminated Dial | .35 |
| 7997 | Dial-In Handset | 1.10 |
| 9232 | Telephone Sets (Explosive Atmosphere) | 10.00 |
| 9236 | Relay Control Sets | 3.00 |
| 9225 | Outdoor Telephone Sets | 3.50 |
| 7929 | Handset or No. 52 Headset | 1.75 |
| 7953 | Operator's Set | 4.00 |
| 9512 | 5-Inch Loudspeakers | 1.75 |
| 9526 | 8-Inch Loudspeakers | 1.75 |
| 9527 | 11x6-Inch Horn | 1.75 |
| 9515 | Microphone | 2.00 |
| 6101 | Extension Bells | 1.75 |
| 6105 | Extension Gongs | 2.50 |
| 6114 | Bell-Chime Combination | 2.00 |
| 3445 | Pushbutton | .60 |
| 3444 | Buzzer | .60 |
| 6255 | Bell | 3.00 |
| 6256 | Horn | 3.00 |
| 6239 | Chime | 3.00 |
| 6103 | Bell | 1.75 |
| 6111 | Bell | 1.75 |

DOCKET NO. P-12, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Citizens Telephone Company for an Adjustment of its Intrastate Rates and Charges ) ORDER GRANTING PARTIAL INCREASE

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, February 3, 1976, through February 5, 1976

BEFORE: Commissioners George T. Clark, Jr., Presiding; Barbara A. Simpson and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Thomas R. Eller, Jr., Hovis, Hunter & Eller, Attorneys at Law, 801 American Building, Charlotte, North Carolina 28286

For the Commission Staff:

E. Gregory Stott, Assistant Commission Attorney, P. O. Box 991, Raleigh, North Carolina 27602; Jane Atkins, Associate Commission Attorney, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On September 4, 1975, Citizens Telephone Company (Applicant, Company, or Citizens) filed a letter of intent to file a general rate Application. On October 6, 1975, Citizens filed with this Commission an Application for adjustment in its rates and charges applicable to intrastate telephone service in North Carolina.

In its Application, the Company alleged that its present rates and charges were inadequate to enable the Company to earn a fair rate of return on its current North Carolina intrastate investment. The test year for the Application was the 12 months ending June 30, 1975. At the same time as the filing of the Application the Company filed certain tariff sheets reflecting the proposed increases and the written testimony and exhibits of Charles W. Pickelsimer, Jr., Thomas L. Bingham, David O. Albertson, Hal L. Carnes, Jr., and A. L. Groce.

On October 29, 1975, Citizens by and through its counsel of record filed a Motion requesting that the Commission enter an Order allowing the rates filed by Citizens Telephone Company on October 6, 1975, to become effective on bills rendered on and after November 1, 1975. As the basis

for this Motion, Citizens alleged an emergency situation in which irreparable harm would be done to Citizens Telephone Company if the proposed rates were suspended.

The Commission took this Motion under advisement and by letter scheduled a recorded conference for 10:30 a.m. on Friday, October 31, 1975, in which all parties could be heard concerning the Applicant's Motion to allow the proposed rates to become effective. Based upon the arguments of counsel at the meeting scheduled on October 31, 1975, the Commission issued an Order on October 31, 1975, allowing the schedule of rates filed by Citizens on October 6, 1975, to become effective subject to refund on all bills rendered by the Company on or after November 1, 1975, except as related to coin operated telephones. The Order further required Citizens to file an undertaking to refund with interest any amounts collected pursuant to the increase which would be in excess of those determined to be just and reasonable, declared the matter to be a general rate case, required the Applicant to publish notice to the public, and set this matter for hearing on February 3, 1976, at 10:00 a.m. in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina.

On November 6, 1975, Citizens filed the required undertaking pursuant to Ordering Clause No. 2 of the Commission Order Allowing Rates to Become Effective. The Application of Citizens came on for hearing as scheduled on Tuesday, February 3, 1976.

Citizens offered the testimony of the following witnesses:

(1) Charles W. Pickelsimer, Jr., Vice President and General Manager and a Member of the Board of Directors of Citizens, testified regarding the needs of Citizens for additional revenues, rate structure, cost of capital, fair value, and the history of Citizens Telephone Company.

(2) Thomas L. Bingham, Secretary-Treasurer-Controller and Member of the Board of Directors, testified regarding the Company's rates, financial and accounting records, cost of capital, and its separations methods to determine intrastate portion of the Company's operation.

(3) David O. Albertson testified regarding the income statement of Citizens as taken from the books and records for the 12 months' period ending June 30, 1975, and regarding accounting and pro forma adjustments for the same period. He further testified on net original cost investment for the telephone plant in service plus allowance for working capital.

(4) Hal L. Carnes testified concerning the fair value of the Company's property used and useful in utility services in North Carolina and presented a replacement cost appraisal of the Company's property.

(5) A. L. Groce, President of A. L. Groce Associates, testified with respect to the fair rate of return which Citizens should be afforded an opportunity to earn in connection with its Application for authority to increase its rates and charges for intrastate telephone service.

The Commission Staff offered the testimony of the following witnesses:

(1) H. Randolph Currin, Jr., Rate Analyst, Operations Analysis Section, Division of Engineering, presented testimony concerning a qualitative analysis of the cost of capital and a fair rate of return to Citizens Telephone Company.

(2) Millard N. Carpenter, Rate Analyst, Telephone Engineering Section, testified concerning certain aspects of the Company's proposed rate structure, service charges, and other Staff recommendations.

(3) Gene A. Clemmons, Chief Engineer, Telephone Service Section, Engineering Division of the North Carolina Utilities Commission, testified concerning the results of the Commission Staff's evaluation of the quality of telephone service provided by Citizens in its franchised territory.

(4) Hugh L. Gerringer, Telephone Engineer, Rate Section, Engineering Division, North Carolina Utilities Commission, testified with regard to (a) the appropriateness of the apportionment of the Company's operations within North Carolina between its interstate and intrastate jurisdictions and (b) the status of the Company's intrastate toll settlements with Southern Bell Telephone and Telegraph Company for the test period and the determination of the Company's representative intrastate toll revenues for the test period.

(5) William E. Carter, Staff Accountant, Accounting Division, North Carolina Utilities Commission, testified concerning his evaluation of the Company's original cost net investment, test year revenues, and test year expenses.

(6) Charles D. Land, Senior Operations Engineer of the Operations Analysis Section, Engineering Division, testified on the Company's proposed replacement cost and on directory assistance.

The Applicant also offered rebuttal testimony from Charles W. Pickelsimer, Thomas L. Bingham, and A. L. Groce concerning the testimony presented by the corresponding Staff witnesses. The Staff offered rebuttal testimony of H. Randolph Currin, Hugh L. Gerringer, and William E. Carter concerning the rebuttal testimony filed by Citizens.

The Commission also heard from three members of the public at large. The public witnesses were Mr. and Mrs. Ralph E. Hall and William F. Parker.

Based upon the verified Application, the prefiled testimony and exhibits, the testimony offered at the hearing, and the Commission's official files and records herein, the Commission makes the following

FINDINGS OF FACT

(1) Citizens Telephone Company is a North Carolina corporation chartered and doing business in this State as a franchised telephone public utility under a certificate of public convenience and necessity granted by this Commission.

(2) Citizens Telephone Company is lawfully before this Commission seeking an increase in its rates and charges for intrastate telephone service rendered in North Carolina pursuant to G.S. 62-133. The total increase in rates and charges sought by Citizens would produce approximately $417,219 in additional annual gross revenues as estimated by the Applicant based on the test year which is the 12 months' period ending June 30, 1975.

(3) The quality of telephone service provided by Citizens Telephone Company within its service area is good.

(4) The intrastate portions of Citizens Telephone Company's total investments, expenses, taxes, reserves, and toll revenues for the test period were determined by the Staff using apportionment factors developed from a revised cost separations study for the 12 months' period ending December 31, 1974. This study was the latest approved one available and included the first half of the Company's general rate case test period.

(5) The original cost investment of the intrastate plant of Citizens is $8,057,029. The accumulated provision for depreciation is $2,096,975. The reasonable original cost less depreciation of Citizens' plant investment applicable to intrastate service is $5,960,054.

(6) The reasonable allowance for working capital is $53,728.

(7) The reasonable replacement cost less depreciation of Citizens' intrastate plant in service is $7,920,000.

(8) The fair value of Citizens' utility plant used and useful in providing intrastate telephone service should be derived from giving 5/9 weighting to the reasonable original cost less depreciation and 4/9 weighting to the reasonable replacement cost less depreciation. By this method, using the depreciated original cost of $5,960,054 and the depreciated replacement cost of $7,920,000, the Commission finds that the fair value of the utility plant devoted to

intrastate telephone service is $6,831,140. The addition of a reasonable allowance for working capital of $53,728 yields a reasonable fair value of Citizens' intrastate property in service of $6,884,868. This fair value includes a fair value increment of $871,086.

(9) The approximate gross revenues net of uncollectibles for Citizens for the test period are $1,578,666 under present rates and under Company proposed rates would have been $1,966,055 before annualization to year-end revenues.

(10) The level of Citizens' operating revenue deductions after accounting and pro forma adjustments is $1,347,661 which includes an amount of $395,166 for actual investment currently consumed through reasonable actual depreciation, before annualization to year-end level.

(11) The proper annualization factor necessary to restate income after accounting and pro forma adjustments to end-of-period level as required by G.S. 62-133 is .0212.

(12) The capital structure of Citizens' North Carolina intrastate operations at June 30, 1975, reflecting common equity is as follows:

| | Percent |
|---|---|
| Total debt | 70.38% |
| Common equity | 21.66% |
| Cost-free capital | 7.96% |
| | 100.00% |

(13) When the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total debt | 61.48% |
| Fair value common equity | 31.57% |
| Cost-free capital | 6.95% |
| | 100.00% |

(14) The Company's original cost equity ratio is 21.66%, and the fair value common equity ratio is 31.57%.

(15) The Company's proper embedded cost of total debt is 3.36%. The fair rate of return which should be applied to the fair value equity is 9.31%. The 9.31% return on fair value equity and the return of 3.36% on total debt yields a rate of return on Citizens' fair value property of 5.00%.

(16) Citizens must be allowed an increase in annual local service revenues of $238,062 to allow the Company the opportunity, through prudent and efficient management, to earn the 5.00% return on the fair value of its property. This increased revenue requirement is based upon the fair

value of the property, the reasonable test year operating expenses, and the revenues as previously determined.

(17) Charging for directory assistance is an appropriate means of requiring those subscribers who use the local directory assistance service to pay a portion of the costs incurred to provide the service.

(18) The schedule of rates and charges and the service charge tariff set forth in Appendices "A" and "B" attached to this Order are found to be just and reasonable, in that the schedule will generate additional annual local service revenues of $238,062.

(19) In accordance with its notice and undertaking to place increased rates into effect, Citizens should be required to refund to its customers the increased revenues with appropriate interest to the extent the increased revenues collected from its customers exceed those rates and revenues found herein to be just and reasonable.

Based upon the above Findings of Fact the Commission reaches the following conclusions:

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 AND 2

Procedural Matters

The evidence for Findings of Fact Nos. 1 and 2 comes from the verified Application, the testimony and exhibits of Company Witnesses Pickelsimer and Bingham and G.S. 62-133. These findings are essentially informational, procedural, and jurisdictional in nature and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Quality of Service

The evidence which appears in this record as to the quality of service consists of the testimony of Charles W. Pickelsimer, Vice President and General Manager of Citizens Telephone Company, and Gene A. Clemmons, Chief Engineer, Telephone Service Section of the Utilities Commission. There were no public witnesses testifying about the quality of service.

Mr. Pickelsimer testified that Citizens is rendering quality service; that extended area service is provided throughout the Company; that all subscribers are served by single-party lines; that the Company is working about 90% of its service orders within five working days; that about 95% of trouble reports received before 5:00 p.m. are cleared on the day received; that the Company's objective to miss not more than 5% installation appointments is being met; and that the Company takes pride in the quality and extent of its service.

Mr. Clemmons testified concerning the Commission Staff's investigation and evaluation of the operations of Citizens Telephone Company. He testified that his evaluation of Citizens' operations indicated that the service is good and that Citizens is on par with the better-operated companies in the State.

The Commission concludes from the evidence in this case that Citizens Telephone Company is providing adequate and efficient service as required by statute. The Company has demonstrated its commitment and desire to provide quality telephone service to its subscribers. This attitude of management to satisfy the needs of its subscribers is indicated through the establishment of an all one-party flat-rate system, county-wide extended area service, and the prompt response to subscriber trouble reports and service order requests.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Apportionment Factors for Intrastate Operations

Citizens Telephone Company makes cost separations studies annually for the purpose of conducting toll settlements on an actual cost basis with Southern Bell. The Company's study, including basic traffic factors, is prepared by the consulting firm of John Staurulakis, Inc., and is reviewed and approved for toll settlements by Southern Bell. The Company used the results of the latest available study for the 12 months' period ending December 31, 1974, as a basis for developing apportionment factors which were applied to test period investments, expenses, taxes, reserves, and toll revenues to arrive at the Company's intrastate operations necessary for rate-making purposes.

Staff Witness Gerringer's investigation made after the Company filed its case revealed that the study for making toll settlements which the Company used for developing apportionment factors was revised prior to acceptance by Southern Bell. The revisions primarily were concerned with changes in the subscriber plant factor used in part to determine the intrastate apportionment factors. Witness Gerringer's investigation further revealed that the Company in using the results of the unrevised study did not properly apportion the Company's operations assigned to special services which included toll private line operations and operations assigned to C-schedule commissions or line haul. In both instances, the Company did not exclude the interstate operations. The net effect of the Company's errors was to overassign investments, expenses, and reserves to the intrastate jurisdiction.

Staff Witness Gerringer calculated a set of apportionment factors using the results of the approved revised cost separations study and including proper apportionment of the Company's special services and line haul operations to interstate and intrastate jurisdictions. The Commission

concludes that the factors calculated by Witness Gerringer are proper for determining the Company's intrastate portions of investments, expenses, taxes, reserves, and toll revenues to be considered for intrastate rate-making purposes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Original Cost Plant

The Commission will now analyze the testimony and exhibits presented by Company Witness Bingham and Staff Witness Carter concerning the original cost of Citizens' intrastate telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

| Item | Company Witness Bingham | Staff Witness Carter |
|---|---|---|
| Investment in telephone plant in service | $8,391,732 | $8,057,029 |
| Less: Reserve for depreciation | 2,176,652* | 2,096,975 |
| Advances for construction | - | 122,422 |
| Net investment in telephone plant in service | $6,215,080 | $5,837,632 |

*Adjusted for Bingham depreciation expense adjustment ($25,630 x .8051)

As the above chart shows, the first item of contention between the witnesses is the amount of the intrastate investment in telephone plant in service. This is a difference of $334,703. As testified to by Witness Carter, the difference of $334,703 results from the difference in allocation factors used by Company Witness Albertson and Staff Witness Gerringer to allocate plant in service to intrastate operations. The gross telephone plant in service used by both Witness Bingham and Witness Carter was $10,369,124. Witness Albertson used a composite intrastate allocation factor of 80.93% while Witness Gerringer used a composite intrastate allocation factor of 77.7145%.

Having previously determined that the intrastate allocation factors as developed by Staff Witness Gerringer are the correct ones to use in this proceeding, the Commission concludes that the intrastate investment in telephone plant in service is $8,057,029.

The next item of difference is the amount to be deducted for the reserve for depreciation. Company Witness Bingham testified that the end-of-period depreciation reserve should be $2,176,652 [($2,677,950 + $25,630) x .8051]. Staff Witness Carter testified that the end-of-period depreciation reserve should be $2,096,975, or a difference of $79,677

between the two witnesses. The $79,677 is comprised of the following differences:

| | | |
|---|---|---|
| 1. | Application of different intrastate allocation factors to the "per books" depreciation reserve | $67,343 |
| 2. | Different adjustment to test year depreciation expense to arrive at end-of-period level | 12,334 |
| | | $79,677 |

Both Witness Bingham and Witness Carter testified that the actual reserve for depreciation at June 30, 1975, was $2,677,950. Witness Bingham used an allocation factor of .8051 to allocate the depreciation reserve to intrastate operations while Witness Carter used a factor of .779953. The factor which Witness Bingham used was developed by Witness Albertson and the factor used by Witness Carter was developed by Witness Gerringer. Having previously determined that the intrastate allocation factors as developed by Witness Gerringer are the correct ones to use in this proceeding, the Commission concludes that the actual reserve for depreciation applicable to intrastate operations at June 30, 1975, was $2,088,675 ($2,677,950 x .779953).

Both Company Witness Bingham and Staff Witness Carter testified that it is necessary to reflect the annual depreciation on the investment in telephones served at June 30, 1975, as the depreciation expense for the test period, and that a corollary adjustment to depreciation reserve should be made in this same amount. Witness Bingham testified that he used a station growth factor to bring the operations to a going level at the end of the test period; but that, in itself, is not adequate to get depreciation expense to an end-of-period level. Witness Bingham further testified that a calculation of end-of-period depreciation expense based on plant in service at June 30, 1975, would require a total Company adjustment of $25,630 and $20,601 for intrastate operations and that merely applying an annualization factor to actual depreciation expense for the test year would not result in end-of-period depreciation expense of this amount; therefore, it was necessary to use a direct calculation in determining end-of-period depreciation expense.

Staff Witness Carter testified that he did not agree with the Company's method of picking depreciation expense to annualize on a basis different from all other items. He stated that the purpose of using an annualization factor is to bring net operating income to an end-of-period level. He testified that it is reasonable to expect certain items of revenues, expenses, depreciation, and taxes to increase faster than the rate used to annualize net operating income and other items to increase slower than the rate used to annualize net operating income, but, overall, the annualization factor is a good average to apply to net

operating income. Witness Carter, in his surrebuttal testimony, illustrated that, as an example, local service revenues for the month of June 1975 multiplied by 12 would result in annual revenues of $22,045 greater than the actual local service revenues for the test year increased by the annualization factor, which would more than offset the $19,983 increase in intrastate depreciation expense obtained by multiplying the plant balances at the end of the test year by the appropriate depreciation rates rather than increasing actual depreciation expense by the Staff annualization factor. Accordingly, Staff Witness Carter did not make a separate adjustment to depreciation expense, since he applied the annualization factor to net operating income to bring all items of revenue, expense, depreciation, and taxes to an end-of-period level. Witness Carter also made the corollary adjustment increasing depreciation reserve by $8,300, an amount equal to the test year depreciation expense multiplied by the annualization factor.

The Commission concludes from the evidence presented that it would not be proper to annualize depreciation expense on a basis other than the annualization factor. The Commission is of the opinion that it would be improper to annualize depreciation expense on a basis different from other items of revenues and expenses. The Commission fully recognizes that applying an annualization factor to actual depreciation expense for the test year results in a smaller amount than multiplying the plant investment at June 30, 1975, by the applicable depreciation rates. The same is true of local service revenues. Local service revenues for the month of July 1975 multiplied by 12 results in a greater amount than applying the annualization factor to actual local service revenues for the test year. Consequently, the Commission concludes that the adjustment made by Staff Witness Carter to the intrastate depreciation reserve of $8,300 following the adjustment for end-of-period depreciation expense is reasonable and that the proper amount to be included as the intrastate depreciation reserve is $2,096,975 ($2,088,675 + $8,300).

The last item of difference in the net investment in telephone plant in service presented by the witnesses is an adjustment of $122,422 made by Staff Witness Carter to eliminate advances for construction from the original cost net investment.

Witness Carter testified that he deducted this amount because these funds have no cost to the Citizens Telephone Company. The funds were supplied to Citizens Telephone Company by outside parties and Citizens does not pay any interest or other costs on these funds. He stated that if he had not deducted this amount in determining his original cost net investment it would have had the effect of including an amount for interest expense on his Exhibit 1, Schedule 1, Line 1, Columns (e) and (i) which Citizens does not, in fact, have and that this would have the effect of

asking Citizens' ratepayers to pay in rates to cover a cost which does not exist.

In his rebuttal testimony Witness Bingham testified that he realized that the $122,422 was not contributed by the Company's stockholders and, perhaps, could be treated as cost-free capital. He further stated that it is a fact that this $122,422 represents plant which is actually installed and used and useful. It must be maintained, operated, and replaced at Company expense. Witness Bingham stated that he did not believe it was proper to deduct these construction advances from the net investment of plant actually in service and to deprive Citizens of depreciation expense, maintenance expense, and rate of return on this investment. Witness Bingham stated that, in his opinion, Witness Carter could have shown this $122,422 on the capital side at either no cost or, preferably, at reduced cost because it is no different from plant installed with tax deferrals which Witness Carter did not deduct from the rate base.

The Commission agrees that these construction advances have no cost to Citizens Telephone Company and that Citizens should not recover any cost from the ratepayers on these funds. As explained by counsel for the Applicant, these funds represent deposits made by developers for the additional cost of underground cable in various subdivisions. A portion of these funds is to be paid back to the developers over a ten-year period based on a per telephone installed basis.

The Commission is of the opinion that these funds represent a liability to Citizens Telephone Company that will have to be repaid sometime in the future.

The Commission is of the opinion that these funds are similar to funds represented by deferred income taxes and investment tax credits and, therefore, should be included in the capital structure at zero cost, the manner in which this Commission has consistently handled these two cost-free sources of capital. The Commission will not deduct this item in determining net telephone plant in service. Based on all the testimony and evidence in this case, the Commission concludes that the reasonable original cost depreciated of Citizens' telephone plant in service is $5,960,054.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Working Capital Allowance

Staff Witness Carter and Company Witness Albertson each presented a different amount for the working capital allowance.

Company Witness Albertson testified that he used as the working capital allowance the North Carolina intrastate amount of material and supplies at June 30, 1975, of $66,441

and a cash allowance of $59,384, consisting of 1/12 of operation and maintenance expenses, for a total working capital allowance of $125,825.

Staff Witness Carter presented a working capital allowance of $53,728 consisting of material and supplies, a cash allowance of 1/12 of operating expenses (excluding depreciation and taxes), plus average prepayments, less average tax accruals and end-of-period customer deposits. Witness Carter testified that the manner in which he determined his working capital allowance is the manner in which this Commission has determined the working capital requirement in recent rate proceedings.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Carter should be used in this case. The allowance for working capital will be determined by adding end-of-period material and supplies, cash equal to 1/12 of operating expenses excluding depreciation and taxes, average prepayments, less average tax accruals and end-of-period customer deposits. Using these components in the calculation, the Commission concludes that the reasonable allowance for working capital is $53,728.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Replacement Cost

Although the term "replacement cost" envisions replacing utility plant in accordance with modern design techniques and with the most up-to-date changes in the state of the art of telephony, replacement cost as presented by the Company is founded upon the premise of the duplication of plant as is, with inefficiencies and outmoded design included. Even though normal obsolescence can be accounted for in proper depreciation treatment, the efficiencies of more modern plant are not incorporated in the trending process. Nevertheless, the Commission concludes that the replacement cost as proposed by the Company and as amended by the Staff for the purported value of the replacement cost represents some evidence on the replacement cost of the plant in service. Accordingly, the weight given to the replacement cost in this proceeding is based upon a detailed evaluation of the methodology employed.

Company Witness Carnes presented a study of net replacement cost of the Company's intrastate plant in service. Staff Witness Land presented a critique of that study. Witness Carnes developed a trended original cost by trending original cost dollars with trend factors developed from the Consumer Price Index (CPI). The Commission agrees with Witness Land that the use of the Consumer Price Index to develop cost trends of telephone plant is not appropriate but that the results of such trending do offer gross estimates of trended reproduction costs. The Commission

agrees with Witnesses Carnes and Land and concludes that the trended original cost calculated by Witness Carnes can be useful in the determination of replacement cost.

To depreciate his calculation of trended original cost or reproduction cost new, Witness Carnes trended up the actual accrued dollars of depreciation by year of accruals. This is an incorrect method of trending depreciation. It is the plant which has depreciated and lost value since its placement. Both the original cost and the depreciation must be trended from the year of placement by the same trend factor to correctly reflect both the original cost and the cost of depreciation in today's dollars. Witness Land recalculated the depreciation based upon vintage depreciation reserve. By trending depreciation correctly by year of plant placement, Witness Land calculated the reproduction cost less depreciation to be $8,665,098.

Staff Witness Land raised a number of points regarding the accuracy of the Company's study. As he pointed out, the CPI does not reflect the actual cost changes in telephone equipment. Contrary to the inflation shown by the CPI, at least one account, station apparatus, has had a declining or deflationary trend.

Witness Carnes and Witness Land in his corrections, trended up the actual book depreciation dollars to compute today's value of the plant depreciation. However, Company Witness Carnes testified that early year depreciation rates were too low, and, therefore, the depreciation in the early years was underaccrued. He also testified that present depreciation rates are correct. The result of using the past underaccruals to book reserve to calculate depreciation is that the trended depreciation is undervalued and, therefore, does not properly indicate the true state of the plant. The result is that the net reproduction cost, computed by subtracting the undervalued trended depreciation from the trended original cost, is overstated.

Staff Witness Land testified that the Company's calculated net replacement cost, which includes the drawbacks mentioned above, resulted in a replacement cost 45% greater than the net original cost. Staff Witness Land showed that this increase is more than twice that resulting from most other North Carolina telephone company studies, all of which are performed with more accurate data and trend factors, and he recommended that no amount in excess of $7,920,000 be found as the replacement cost of the Company's plant in service. Given the relatively young age of the Citizens Telephone Company plant, the Commission concludes that it is unreasonable to assume that net reproduction cost exceeds net original cost by 45%.

The Commission concludes that the reasonable replacement cost less depreciation is $7,920,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Fair Value Rate Base

The Commission concludes that, considering the original cost less depreciation of $5,960,054 and the replacement cost less depreciation of $7,920,000, the reasonable weighting of original cost less depreciation is 5/9 and the reasonable weighting of the replacement cost less depreciation is 4/9 in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. This weighting results in a fair value of plant in service of $6,831,140 which includes a reasonable fair value increment of $871,086. With the addition of the working capital allowance of $53,728, the fair value rate base is $6,884,868.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Operating Revenues

Company Witness Bingham, Staff Witness Carter, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer testified specifically concerning the separations procedures necessary to separate operating revenues and expenses between jurisdictions. Witness Gerringer also testified concerning the Applicant's appropriate level of end-of-period intrastate toll revenues, and this amount was used by Witness Carter in his testimony and exhibits. Witness Bingham and Witness Carter testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments.

The following chart shows the amount claimed by each witness:

| Item | Company Witness Bingham | Staff Witness Carter |
|---|---|---|
| Local Service Revenues | $1,037,212 | $1,037,212 |
| Toll Service Revenues | 380,748 | 399,790 |
| Miscellaneous Revenues | 125,672 | 140,334 |
| Uncollectibles | (2,644) | (2,644) |
| Total | $1,540,988 | $1,574,692 |

From the evidence presented in this proceeding, both witnesses are in agreement concerning local service revenues and uncollectibles. The Commission concludes that local service revenues before annualization to year-end level are $1,037,212 and uncollectibles are $2,644.

The first item of difference between the two witnesses is the proper level of toll revenues. Witness Bingham testified that the appropriate level of toll revenues was $380,748 and Witness Carter testified that the appropriate

level was $399,790, for a difference of $19,042 between the two witnesses.

Witness Bingham adjusted the test period toll revenues for amounts received during the test year but applicable to periods outside the test year. He also included an adjustment for $54,234 for the estimated annual effect of the intrastate toll rate increase reviewed July 1, 1975. The $54,234 was the original annualized amount which Southern Bell estimated Citizens Telephone Company would receive from the intrastate toll rate increase.

Staff Witness Gerringer testified that he made a direct calculation of the end-of-period amount of intrastate toll revenues. Witness Gerringer stated that he took the end-of-period level of investment and operating expenses and calculated the appropriate level of intrastate toll revenues using an intrastate toll settlement rate of return of 9.0%, which Witness Gerringer testified is based on the annualized actual intrastate toll rates of return for the months of July through November 1975. Witness Gerringer determined that the proper level of intrastate toll revenues is $396,372. Witness Carter testified that he took Witness Gerringer's amount of $396,372 and divided it by 1.0212 to "de-annualize" it because the toll revenue amount would later be increased by the annualization factor. Witness Gerringer's calculation of $396,372 became $388,143 when "de-annualized" by Witness Carter. At this point there was a $7,395 ($388,143 - $380,748) difference between the two witnesses. The remaining difference of $11,647 ($19,042 - $7,395) results from an adjustment made by Witness Carter for the intrastate toll revenue effect of expense adjustments made by both Witness Bingham and Witness Carter. Witness Bingham did not make a similar adjustment. Witness Carter testified that, if Citizens had actually experienced the increased operating expenses and decreased plant investment which he proformed into the test period operations, Citizens would have received an additional $11,647 in intrastate toll revenues from Southern Bell.

The Commission agrees with Witness Gerringer that the appropriate level of intrastate toll revenues to be used in setting rates for the future is $396,372 (exclusive of toll revenue effects of adjustments made by accounting witnesses), based on a direct calculation using year-end investment and expenses and an intrastate toll settlement rate of return of 9.00%. The Commission is of the opinion that this method is more appropriate than the method used by Witness Bingham of adjusting actual test period toll revenues for out-of-period items and including $54,234, Southern Bell's original estimate of the revenues Citizens would receive from the intrastate toll increase effective July 1, 1975. Witness Gerringer's method is also better than the method of making a direct calculation using a rate of 7.61% as discussed by Witness Bingham in his rebuttal testimony. Witness Bingham testified that the 7.61% is Bell's estimate of the intrastate toll settlement rate of

return for calendar year 1975. The estimated rate of return of 7.61% only recognizes six months of the intrastate toll increase effective July 1, 1975. Because rates are being set for the future based on conditions at the end of the test year, it is necessary that the full annual effect of the intrastate toll revenue increase effective July 1, 1975, be recognized. Mr. Gerringer testified that the annualized rate of return has been 9.00% or more for the months of July through November 1975. The intrastate toll revenue increase went into effect on July 1, 1975. Even though there is no assurance that the intrastate toll settlement rate of return will remain at 9.00%, there is also no assurance that it will fall below 9.00%. The Commission is of the opinion that an annualized intrastate toll settlement rate of return of 9.00% is the proper rate to use in determining end-of-period intrastate toll revenues, based on the latest available information on the subject.

The Commission also agrees with the theory of Witness Carter's adjustment to intrastate toll revenues following accounting and pro forma adjustments to investment and expenses; however, the Commission does not agree with the amount of $11,647 proposed by Witness Carter. This amount must be adjusted for the intrastate toll revenue effect of the adjustment for the $122,422 in construction advances and the adjustment of $3,792 for depreciation expense on the construction advances. Witness Carter eliminated the $122,422 from the intrastate investment and the $3,792 from depreciation expense and decreased intrastate toll revenues by $3,974 as a result of these adjustments. As previously discussed under Evidence and Conclusions for Finding of Fact No. 5, the Commission is allowing the $122,422 in construction advances as part of the original cost net investment and will later find that the $3,792 depreciation expense on these funds is a proper expense for rate-making purposes. As a result of recognizing the $122,422 as a proper investment item and the $3,792 as a proper expense item, it will be necessary to increase Witness Carter's adjustment to operating revenues by $3,974, from $11,647 to $15,621.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the proper level of intrastate toll revenues, before annualization to year-end level, is $403,764 ($399,790 + $3,974).

The final item of difference between the two witnesses involves the proper level of miscellaneous revenues. Witness Bingham testified that the appropriate level of miscellaneous revenues was $125,672 while Witness Carter testified that the appropriate level was $140,334, for a difference of $14,662. Witness Carter testified that the $14,662 represents an adjustment to increase revenues to eliminate an adjustment which decreased revenues during the test period. Witness Carter testified that during the period January 1, 1971, through March 20, 1975, Southern

Bell paid rental revenues to Citizens in error. The full amount of these erroneous payments was deducted from revenues owed to Citizens during the test year, and the $14,662 adjustment restores to revenues the amount of payments applicable to the period January 1, 1971, to June 30, 1974, the period of time which represents erroneous payments applicable to a period outside the test period. In his rebuttal testimony, Witness Bingham stated that Witness Carter's adjustment for this item was proper.

Based on the foregoing discussion of the evidence in this proceeding concerning miscellaneous revenues, the Commission concludes that the appropriate level of miscellaneous revenues is $140,334.

In summary, the Commission concludes that the appropriate level of operating revenues under present rates, before annualization to year-end level, is $1,578,666, consisting of $1,037,212 in local service revenues, $403,764 in toll service revenues, $140,334 in miscellaneous revenues, and uncollectible revenues of $2,644.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Operating Revenue Deductions

Company Witness Bingham and Staff Witness Carter presented testimony and exhibits showing the level of intrastate operating revenue deductions they believed should be used by the Commission for the purpose of fixing Citizens Telephone Company's rates in this proceeding.

The following chart shows the amount claimed by each witness:

| Item | Company Witness Bingham | Staff Witness Carter |
|---|---|---|
| Operating expenses | $ 730,528 | $ 715,912 |
| Depreciation and amortization | 428,004 | 391,374 |
| Taxes - other than income | 156,332 | 148,448 |
| Income taxes - State and federal | 59,181 | 87,492 |
| Interest on customer deposits | - | 497 |
| Total operating revenue deductions before annualization | $1,374,045 | $1,343,723 |

The first item of difference in the above operating revenue deductions concerns operating expenses. Witness Bingham testified that the appropriate level of operating expenses was $730,528, while Witness Carter testified that the appropriate level was $715,912, or a difference of $14,616. The $14,616 difference is comprised of the following items:

| | | |
|---|---|---|
| 1. | Difference in "per books" intrastate operating expenses between the two witnesses resulting from the use of different allocation factors to allocate combined operating expenses to intrastate operations | $(29,512) |
| 2. | Difference in intrastate amount of accounting and pro forma adjustments recommended by Company Witness Bingham and accepted by Staff Witness Carter. Difference results from application of different intrastate allocation factors to adjustments. | (3,723) |
| 3. | Difference in rate case expense adjustment. Company Witness Bingham used total rate case expense of $35,000 amortized over two-year period and Staff Witness Carter used total rate case expense of $39,887 amortized over three-year period. Also, different intrastate allocation factors were used by the two witnesses. | (4,127) |
| 4. | Adjustment to relief and pensions made by Staff Witness Carter | 5,620 |
| 5. | Adjustment made by Staff Witness Carter to reclassify a portion of officers' salaries from capital accounts to expense accounts | 14,109 |
| 6. | Adjustment made by Staff Witness Carter to increase postage expense | 2,593 |
| 7. | Adjustment by Staff Witness Carter to increase license plate costs | 424 |
| | Total | $(14,616) |

The Commission will now discuss each of the above components comprising the $14,616 difference in operating expenses.

The Commission has previously discussed the different allocation factors used by Company Witness Albertson and Staff Witness Gerringer. Since the Commission has previously found that the factors developed by Staff Witness Gerringer are the appropriate ones to use in this proceeding, the Commission adopts the $29,512 and $3,723 reductions in operating expenses listed as Items 1 and 2 above, as recommended by Staff Witness Carter.

The third difference listed above concerns an adjustment for rate case expenses incurred in connection with this proceeding. Company Witness Bingham originally estimated total rate case expenses of $35,000 with a two-year amortization period for rate-making purposes, or an adjustment of $14,320 for intrastate operations. Staff Witness Carter

testified that during the field audit investigation Witness Bingham stated that he estimated additional expenses of $4,887 would be incurred. Witness Carter included these estimated additional expenses for a total rate case expense of $39,887; however, Witness Carter testified that he amortized the expenses over a three-year period for rate-making purposes for an adjustment of $10,193 for intrastate operations, or a $4,127 difference between the two witnesses. He testified that the three-year amortization period is consistent with recent Commission decisions concerning amortization of rate case expenses.

The Commission concludes that the proper level of total rate case expenses to be recognized in this proceeding is $39,887 and that these expenses should be amortized over a three-year period. The three-year period is consistent with the period the Commission has used in amortizing rate case expenses in other recent telephone rate proceedings. The total intrastate adjustment for rate case expenses is $10,193 ($39,887 ÷ 3 x .766650).

The fourth difference listed above concerns an adjustment to relief and pensions. Witness Carter testified that this account was understated during the test period because an error was made in recording the first quarter pension payment. Witness Carter testified that the first quarter payment was recorded as a debit to pension expense instead of to the liability account, thereby overstating relief and pension expense. He further testified that this error was corrected during the test period, thereby understating the test period pension expense, and that his adjustment increasing pension expense restored this account to its proper level.

From the evidence presented in this proceeding, the Commission concludes that the Applicant understated pension expense during the test period, and Witness Carter's adjustment of $5,620 increasing this expense is proper.

The fifth difference listed above of $14,109 concerns an adjustment to officers' salaries and bonus. Witness Carter testified that the purpose of the adjustment was merely to reclassify a portion of the salaries and bonus which was capitalized during the test period and to expense this amount based on the actual calendar year 1974 distribution. He testified that this adjustment was necessary because a reclassification is made in December of each year by the Company's independent auditors to properly distribute the officers' salaries and bonus to the appropriate accounts. The reclassification properly distributes the officers' salaries and bonus recorded during the months of January through November. Since the test year covered the period July - June, the December reclassification had the effect of reclassifying the January - June salaries and wages which were not in the test period. Witness Carter testified that this adjustment merely reclassifies the salaries and bonus

as recorded on the books to the actual expensed-capitalized ratios for the calendar year 1974.

The Commission is of the opinion that the $14,109 adjustment made by Witness Carter is proper. From the evidence presented in this proceeding, it is apparent that the adjustment made by the Applicant's independent auditors in December 1974 reclassifying a portion of the officers' salaries and bonus for the calendar year 1974 distorted the expense portion of officers' salaries and bonus for the test year ended June 30, 1975. The adjustment had the effect of overstating the portion of officers' salaries and bonus to be capitalized and understating the portion to be expensed. The Commission concludes that for rate-making purposes the officers' salaries and bonus should be restated to a normal expensed-capitalized ratio and that the $14,109 adjustment made by Witness Carter is proper.

The sixth difference listed above of $2,593 concerns an adjustment increasing postage expense. Witness Carter testified that a first-class postage increase from 10¢ to 13¢ an ounce took place in December 1975, and if the increase had been in effect during the test year Citizens' postage expense for intrastate operations would have been $2,593 greater than the amount actually incurred by the Company for the test period.

The Commission concludes that the $2,593 adjustment to postage expense is proper because Citizens is experiencing the higher postage rates and that the telephone rates approved in this Order should be set to cover a cost of service recognizing the increased postage rates.

The final difference of $424 listed above concerns an adjustment increasing motor vehicle license plate costs. Witness Carter testified that, when Citizens paid for its motor vehicle license plates, the cost was charged to a deferred debit account and none of the cost of the license plates was ever transferred from the deferred debit account to other accounts. Witness Carter testified that his adjustment of $424 transferred a portion of total license plate costs to operating expenses, based on a ratio of truck hours assigned to operating expenses during 1974 to total truck hours during 1974. On Page 9 of his rebuttal testimony, Witness Bingham stated that Witness Carter's adjustment for this item was proper.

Based on the evidence and testimony of both witnesses, the Commission concludes that Witness Carter's adjustment increasing license plate expense by $424 is proper.

Based on the foregoing discussion, the Commission concludes that the proper level of operating expenses before annualization to year-end level is $715,912.

The Commission will now discuss the proper depreciation expense claimed by both Company Witness Bingham and Staff

Witness Carter. Witness Bingham claims a proper level of intrastate depreciation expense of $428,004, while Witness Carter claims a proper level of $391,374, for a difference of $36,630 between the two witnesses. The difference of $36,630 is comprised of two components. One component is the absolute total company dollar amount of depreciation expense and the other difference relates to the different intrastate allocation factors used by the two witnesses.

On an absolute total company dollar basis, Witness Bingham testified that end-of-period depreciation expense is $532,476 (Bingham Rebuttal Testimony, Exhibit No. 1, Schedule No. 1, Page 1 of 2). Witness Carter testified that the end-of-period total company depreciation expense is $501,982, for a difference of $30,494. The $30,494 is made up of two components. The first component of $4,864 represents an adjustment to depreciation expense made by Witness Carter to eliminate depreciation expense recorded on plant financed by advances for construction. The second component of $25,630 represents an adjustment made by Witness Bingham to include the difference between depreciation expense computed on plant in service at June 30, 1975, multiplied by the applicable depreciation rates and the actual depreciation recorded on the books for the test year. The total intrastate difference between the two witnesses is as follows:

| | Combined Depreciation Expense | Intrastate Allocation Factor | Intrastate Depreciation Expense |
|---|---|---|---|
| Company Witness Bingham | $532,476 | 80.38% | $428,004 |
| Staff Witness Carter | 501,982 | 77.9658% | 391,374 |
| Difference | $ 30,494 | | $ 36,630 |

The Commission has previously discussed the issues of construction advances, the issue of the end-of-period calculation of depreciation expense, and the issue of different intrastate allocation factors under the Evidence and Conclusions for Findings of Fact Nos. 4 and 5. Consistent with its finding that the construction advances should be treated as cost-free capital and not deducted from the rate base, the Commission concludes that Witness Carter's adjustment of $4,864 ($3,792 intrastate operations) is not proper. Citizens should be able to recover depreciation expense on the plant financed by advances for construction. Consistent with its finding that depreciation expense should not be annualized on a basis different from other operating revenue deductions, the Commission concludes that Witness Bingham's adjustment of $25,630 ($20,601 intrastate operations) is not proper. Consistent with its Finding of Fact No. 4, the Commission concludes that the intrastate allocation factor of 77.9658% used by Witness Carter is proper. Based on all the above discussion, the Commission concludes that the appropriate level of end-of-

period intrastate depreciation expense is $395,166 ($506,846 x .779658).

The Commission will now discuss the difference between the level of taxes other than income recommended by the two witnesses. Company Witness Bingham recommended intrastate taxes other than income of $156,332 while Staff Witness Carter recommended intrastate taxes other than income of $148,448, for a difference of $7,884 between the two witnesses. The primary difference between the two witnesses results from the use of different intrastate allocation factors. The total company difference between the two witnesses is only $746. The $746 is comprised of two items as follows:

| | | |
|---|---|---|
| 1. | Adjustment made by Staff Witness Carter to increase property tax expense | $ 511 |
| 2. | Adjustment made by Staff Witness Carter decreasing actual gross receipts taxes recorded during the test year and adjusting Applicant's gross receipts tax adjustment | (1,257) |
| 3. | Total | $ (746) |

Concerning the $511 total company difference in property tax expense, Witness Bingham testified that at the time of preparing his testimony he estimated that Transylvania County would increase its tax rate by 5¢ per $100 of valuation. Witness Bingham estimated the tax valuation of Transylvania County to be $7,676,000, for a pro forma property tax adjustment of $3,838 ($7,676,000 x .0005).

Witness Carter testified that his pro forma adjustment to property tax expense was composed of two components. The first component adjusts the property tax expense as accrued on the books for the test year to the actual amount for the test year. In determining the actual property tax expense for the test period he testified that he took 1/2 of the actual property tax expense for 1974 and 1/2 of the actual property tax expense for 1975, since 1/2 of the test period was in 1974 and 1/2 in 1975.

Witness Carter testified that the actual property tax expense for 1974 was $62,212 and for 1975 was $75,876. He also testified that based on these amounts the actual property tax expense for the test year should be $69,044. Actual property tax expense accrued during the test year was $67,012, for an adjustment of $2,032.

Witness Carter further testified that the second component of his adjustment increased property tax expense to annualize the effect of an increase in the Transylvania

County property tax rate. Witness Carter testified that the tax rate increased by 6¢ per $100 of valuation and that the actual valuation in Transylvania County was $7,723,260, for a total pro forma increase of $4,634 ($7,723,260 x .0006). Witness Carter further testified that 1/2 of the $4,634 was already included in the first component of his adjustment, so that only an additional $2,317 needed to be added to the $2,032, for a total adjustment to property tax expense of $4,349. This compared with Witness Bingham's adjustment of $3,838, for the difference of $511 between the two witnesses.

The total company difference of ($1,257) in gross receipts tax expense results from two adjustments by Staff Witness Carter. The difference of ($1,262) is related to Staff Witness Carter's adjustment for an overaccrual of gross receipts taxes during the test year. Witness Carter testified that the Applicant's actual gross receipts taxes for the test year were $91,524, based on an examination of its gross receipts tax returns, while the Company had accrued $92,786, for an overaccrual of $1,262.

The remaining $5 difference results from the gross receipts tax effects of different pro forma adjustments to operating revenues made by the two witnesses.

The Commission agrees with Witness Carter's adjustment to property tax expense. Witness Carter's property tax expense adjustment is based on actual amounts; whereas, Witness Bingham's adjustment is based on estimated amounts. Witness Bingham used an estimated tax rate increase and an estimated valuation while Witness Carter used the actual tax rate increase and the actual tax valuation.

The Commission also agrees with Witness Carter's adjustment to gross receipts taxes. Witness Carter's adjustment of $1,257 was proper because the adjustment was necessary to properly state gross receipts taxes for the test year. The Company had overaccrued gross receipts taxes and the $1,257 adjustment restating them was proper.

One additional adjustment to gross receipts taxes is necessary. Based on the Commission's previous finding that an additional revenue adjustment of $3,974 is necessary following the Commission's decision that construction advances should not be deducted from the rate base and depreciation expense should be allowed on the construction advances, it is necessary to increase gross receipts taxes by 6% of the $3,974 toll revenue adjustment, or $238.

The Commission concludes from the evidence presented in this proceeding that the proper level of taxes other than income is $148,686 ($148,448 + $238).

The Commission will now discuss state and federal income taxes. Company Witness Bingham testified that the appropriate level of end-of-period state and federal income

taxes is $59,181 while Staff Witness Carter testified that the appropriate level is $87,492, or a difference of $28,311. The $28,311 difference arises from the following items:

| | Company Witness Bingham | Staff Witness Carter | Difference |
|---|---|---|---|
| 1. Difference in per books intrastate income taxes resulting from use of different intrastate allocation factors | $112,734 | $137,615 | $ 24,881 |
| 2. Income tax effects of difference between Company Witness Bingham's and Staff Witness Carter's accounting and pro forma adjustments, including use of different allocation factors | (53,553) | (31,232) | 22,321 |
| 3. Income tax effects of difference between interest expense used by Company Witness Bingham and Staff Witness Carter | (61,879) | (72,635) | (10,756) |
| 4. Exclusion of $15,913 of other income from income tax calculation by Witness Carter | 8,135 | | (8,135) |
| Totals | $ 5,437 | $ 33,748 | $ 28,311 |

The Commission is of the opinion that it is unnecessary to go into a detailed discussion of the reasons for the above differences between the two witnesses. Since the adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of end-of-period state and federal income tax expense. The proper amount which the Commission finds as the appropriate level of end-of-period income taxes is based on a direct calculation using end-of-period intrastate revenues, expenses, depreciation, taxes other than income, and interest expense calculated on debt which supports the intrastate original cost net investment.

The Commission concludes that the proper end-of-period amount of state income taxes is $10,571 and the proper amount of federal income taxes is $76,829. The following schedule sets forth the state and federal income tax calculation:

| Line No. | Item | Amount |
|---|---|---|
| 1. | Total operating revenues | $1,578,666 |
| 2. | Total operating revenue deductions excluding income taxes | 1,260,261 |
| 3. | Interest expense | 142,212 |
| 4. | Total deductions (L2 + L3) | 1,402,473 |
| 5. | State taxable income (L1 - L4) | 176,193 |
| 6. | State income tax rate | 6% |
| 7. | State income taxes (L5 x L6) | 10,571 |
| 8. | Federal taxable income (L5 - L7) | $ 165,622 |
| 9. | Federal income tax rate before surtax exemption | 48% |
| 10. | Federal income tax before surtax exemption (L8 x L9) | 79,499 |
| 11. | Less surtax exemption (intrastate portion) | 2,670 |
| 12. | Federal income taxes (L10 - L11) | $ 76,829 |

Staff Witness Carter proposed to include interest on customer deposits as an operating expense. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the Company will recover only its cost of these customer supplied funds.

Based on all the testimony and evidence presented in this case and discussed above, the Commission concludes that the proper level of total operating revenue deductions before annualization to year-end level is $1,347,661.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

### Annualization Factor

Company Witness Bingham recommended an adjustment factor of .02603 to raise the actual net operating income for the test period to a going level as of the end of the test period. The adjustment factor was based on the increase of end-of-period total stations over average total stations during the test period.

Staff Witness Carter recommended an adjustment factor of .0212 based on the increase of end-of-period primary stations over average primary stations during the test period. Witness Carter testified that an annualization factor based on primary stations is a more reasonable factor

to use since primary telephones are the basic revenue producing units and account for the great majority of expenses and plant investment. Also, primary telephones are the measurement used for determining exchange rate groupings.

In his rebuttal testimony, Witness Bingham agreed that perhaps Witness Carter's reasoning for developing an annualization based on main station growth was correct.

Based on the testimony and evidence presented, the Commission concludes that the annualization factor should be based on primary stations. The Commission therefore concludes that the annualization factor of .0212 as calculated by Staff Witness Carter is proper.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12-16

Cost of Capital

The Commission adopts the Company's capital structure of June 30, 1975, as presented by Staff Witness Carter. This capital structure reflects intrastate book common equity of $1,777,412.

The capital structure set out in Finding of Fact No. 13 represents a capital structure in which the fair value increment of $871,086 has been added to the book common equity of $1,777,412. This capital structure showing the fair value equity of the Company is reasonable and is adopted by the Commission to determine the cost of the Company's fair value equity.

The Company testified that its test year embedded cost rate for long-term debt was 3.04%. There was evidence that the Company experienced borrowing during 1975 at a higher cost rate. The Commission finds and concludes that the debt embedded cost rate for rate-making purposes should reflect increased borrowing costs. Accordingly, the Commission adopts a cost rate of 3.36%.

The Company sought a rate of return of 21.72% on book common equity. Company Witnesses Pickelsimer and Bingham attempted to justify that return with the contention that principal repayment is a component of cost of capital, in addition to debt and equity costs. The Commission finds no merit in this premise and, accordingly, rejects it. Company Witness Groce attempted to justify that same return by a study of the returns on equity, debt-equity ratios, and pay-out ratios of selected independent North Carolina telephone companies.

Staff Witness Currin testified that, in his best judgment, the cost of book equity capital to Citizens is 15.00% to 15.50%. Since Citizens' equity is not traded in the major capital markets, conventional quantitative techniques could not be used. Instead, Witness Currin used a qualitative

evaluation of the risk differential between Citizens and the larger telephone utilities, Central and Carolina, to determine a risk premium to be added to the market returns of the larger, less risky telephone utilities.

The Commission finds and concludes that Citizens' cost of book equity is 15.00%.

The Commission must also take into account the Company's fair value increment of $871,086 and the effect of adding this increment to the book equity component of the Company's capital structure. In so doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel. Utilities, et al. v. Duke Power Co., 285 N.C. 377 (1974), wherein it is stated:

> "...the capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G. S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration in its findings on rate of return the reduction in risk to Citizens' equity holders and the protection against inflation which is afforded by the addition of the $871,086 fair value increment to the book equity component. Considering the current investment market and Citizens' expansion and upgrading of service to its ratepayers, the Commission concludes that a rate of return of 9.31% on fair value equity including both book equity and

the fair value increment is fair and reasonable. The cost rate of 3.36% on debt and 9.31% on fair value equity yields a 5.00% rate of return on the fair value rate base. The actual dollar return yielded by the rate of return of 9.31% on the fair value equity will yield a rate of return of 15.5% on book common equity, reflecting the incremental dollars added for fair value.

The Commission has considered the tests laid down by G. S. 62-133(b)(4), and concludes that the rates herein allowed should enable the Company to attract sufficient debt and equity capital in order to discharge its obligations and achieve and maintain a high level of service to the public. The Commission cannot, of course, guarantee that the Company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the Company will be able to reach that level of return through efficient management.

The following schedules show the derivation and application of the findings and evidence and conclusions hereinabove and are to be incorporated therein:

SCHEDULE I
CITIZENS TELEPHONE COMPANY
DOCKET NO. P-12, SUB 65
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $1,037,212 | $238,062 | $1,275,274 |
| Toll service | 403,764 | | 403,764 |
| Miscellaneous | 140,334 | | 140,334 |
| Uncollectibles - debit | 2,644 | 1,324 | 3,968 |
| Total operating revenues | 1,578,666 | 236,738 | 1,815,404 |
| Operating Revenue Deductions | | | |
| Maintenance | 339,889 | | 339,889 |
| Traffic | 23,367 | | 23,367 |
| Commercial | 146,706 | | 146,706 |
| General office salaries and expenses | 129,731 | | 129,731 |
| Other | 76,219 | | 76,219 |
| Total operating revenue | 715,912 | | 715,912 |
| Depreciation | 395,166 | | 395,166 |
| Taxes other than income | 148,686 | 14,204 | 162,890 |
| State income taxes | 10,571 | 13,352 | 23,923 |
| Federal income taxes | 76,829 | 100,407 | 177,236 |
| Interest on customer deposits | 497 | | 497 |
| Total operating revenue deductions | 1,347,661 | 127,963 | 1,475,624 |
| Net operating revenues | 231,005 | 108,775 | 339,780 |
| Add: Annualization factor (.0212) | 4,897 | | 4,897 |
| Net operating income for return | $ 235,902 | $108,775 | $ 344,677 |

| | | | |
|---|---|---|---|
| Investment in Telephone Plant | | | |
| Telephone plant in service | $8,057,029 | | 8,057,029 |
| Less: Accumulated provision for depreciation | 2,096,975 | | 2,096,975 |
| Net investment in telephone plant in service | 5,960,054 | | 5,960,054 |
| Allowance for Working Capital | | | |
| Cash | 60,924 | | 60,924 |
| Material & supplies | 63,801 | | 63,801 |
| Average prepayments | 6,661 | | 6,661 |
| Less: Average tax accruals | (69,907) | | (69,907) |
| Customer deposits | ( 7,751) | | (7,751) |
| Total allowance for working capital | 53,728 | | 53,728 |
| Net investment in telephone plant in service plus allowance for working capital | $6,013,782 | | $6,013,782 |
| Fair value rate base | $6,884,868 | | $6,884,868 |
| Rate of return on fair value rate base | 3.43% | | 5.00% |

SCHEDULE II
CITIZENS TELEPHONE COMPANY
DOCKET NO. P-12, SUB 65
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Capitalization | | | | |
| Total debt | $4,232,500 | 61.48 | 3.36 | $142,212 |
| Common equity | | | | |
| Book $1,302,585 | | | | |
| Fair value increment 871,086 | 2,173,671 | 31.57 | 4.31 | 93,690 |
| Cost-free capital | 478,697 | 6.95 | - | - |
| Total | $6,884,868 | 100.00 | - | $235,902 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $4,232,500 | 61.48 | 3.36 | $142,212 |
| Common equity | | | | |
| Book $1,302,585 | | | | |
| Fair value increment 871,086 | 2,173,671 | 31.57 | 9.31 | 202,465 |
| Cost-free capital | 478,697 | 6.95 | - | - |
| Total | $6,884,868 | 100.00 | - | $344,677 |

| | | |
|---|---|---|
| Required net increase for return ($344,677 - $235,902) | | $108,775 |
| Associated increase in taxes other than income | $ 14,204 | |
| Associated increase in state income tax | 13,352 | |
| Associated increase in federal income tax | 100,407 | |
| Associated increase in revenue deductions | | 127,963 |
| Required increase in total operating revenues | | 236,738 |
| Associated uncollectibles | | 1,324 |
| Required increase in gross operating revenues | | $238,062 |

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 AND 18

Mr. Thomas L. Bingham, Controller of Citizens Telephone Company, testified regarding rate design and directory assistance charges.

In connection with rate design Mr. Bingham contended the rates as designed by Applicant best met the Citizens situation. He opposed raising the business rates to two and one-half times the residence rates as the Commission has ordered in recent telephone rate cases. He stated that it would result in too large an increase at one time for businesses. He opposed increasing installation charges to the extent proposed by Commission Witness Carpenter as well as the design of these charges as proposed by Carpenter. He agreed there is merit in the proposal of Carpenter to possibly increase rates for some miscellaneous items. He supported the company's proposal to increase business and residence extension telephones, PBX stations, a 20¢ charge for local pay station calls, a new rate for rotary line service, and an increase on special circuits. He opposed the elimination of color charges.

In connection with directory assistance charges (D.A.) Mr. Bingham contended it was a "must" that such a charge be approved for Applicant since one has been approved for Southern Bell. The implementing of the D.A. charge for Bell has caused Bell to revise the Operator Office Agreement between Bell and Citizens.

According to Witness Bingham, Citizens signed a new Operator Office Agreement contract with Bell during 1974 for

26¢ per main station per month to handle all general operator services which included local directory assistance and service repair calls. The agreement provided that if Bell obtained approval of a charge for directory assistance the contract would be modified so that the charge per main station would be reduced from 26¢ to 8 1/2¢, with Citizens to pay 10¢ for every call to local directory assistance and 15¢ for every call to repair service. Bell, having obtained approval of a D.A. charge, has modified the contract in accordance with the stipulations. Witness Bingham contends that if the Bell directory assistance plan had been in effect during the test period it would have cost Citizens $438 more by having been on the new plan over the existing plan, computed as follows:

| | |
|---|---|
| Total Calls to Local Directory Assistance (535,500 x 70%) | 374,850 |
| Reduced by 50% | 187,425 |
| | 187,425 |
| Charge by Bell for Calls to Directory Assistance | x .10 |
| | $18,743 |
| Charge for handling trouble reports (Estimate from Bell) | 600 |
| Total Cost to Citizens Telephone Company | $19,343 |
| Less: Reduction for Charges for General Operator Office Services 7,461 x 17.5 x 12 Months | 15,668 |
| | $ 3,675 |
| End of Period Adjustment | 511 |
| Less: Calls Charged at $.20 187,425 x 10% x $.20 | - 3,748 |
| Net Cost to Citizens Telephone Company | $ 438 |

The computations are explained as follows:

It was estimated there were 535,500 calls for directory assistance, 70% of which were local. A repression factor of 50% was estimated if D.A. charges are made applicable resulting in a net of 187,425 directory assistance calls.

Under the new agreement Citizens would be charged by Bell for 187,425 calls @ 10¢.

Also, under the new agreement Bell would charge Citizens 15¢ each for 4000 trouble reports.

Bell would reduce the Operator Office Service billings by 17.5¢ for 7461 main stations or $15,668.

An end of period adjustment of $511 to annualize results.

Estimating that only 10% of the 187,425 calls would be billed because of a 5-call free allowance, 18,743 x $.20 = $3,748.

Net cost to Citizens $438 for test period.

Mr. Charles Land, Senior Operations Engineer with the Commission, testified that Applicant did not propose a charge for directory assistance, but he believed that instituting a charge for inquiries to directory assistance should encourage subscribers to use their directories to find numbers listed therein instead of calling directory assistance, thus reducing the cost of operation. Under this plan the charge for the service would pay the cost of rendering the service to those subscribers who still use directory assistance excessively.

Mr. Land and Mr. Bingham did not agree on the dollar effect that the new contract and D.A. charge would have on Applicant. There were two main areas of disagreement, one being that Mr. Land developed the number of test period D.A. calls by using a four-call average for all residence main stations resulting in 353,000 calls where Mr. Bingham uses a Southern Bell estimate of 374,000 calls. The other difference was the repression factor on D.A. calls if a charge is made. Mr. Bingham used a 50% factor citing the fact that Citizens served a less densely populated area than Southern Bell and other companies that a D.A. charge has been approved for, and this along with an uncomplicated directory resulted in a higher percentage of subscribers finding their own numbers. Secondly, Mr. Bingham stated that its service area has its own credit bureau which reduces the calls by commercial establishments calling D.A. service to confirm identifications relating to credit.

Mr. Land used a repression factor of 65% basing his estimate largely on the experience of the Cincinnati D.A. plan.

Using Mr. Bingham's contentions the following comparison shows that there is but a little revenue difference between the plan in use during the test period and the modified contract and D.A. plan.

During the test period a charge of 26¢ per 746| main stations and PBX trunks would result in a cost of $23,278 annually. If the modified contract and D.A. charge plan had been in use, 374,850 local directory calls with a repression factor of 50% or |87,425 calls at |0¢ would have been $|8,743. The 746| main stations and PBX trunks @ 8 |/2¢ would have been $7,6|0, and 4000 trouble calls at |5¢ would have been $600 for a grand total of $26,953. Reduce this figure by $3,748 resulting from a 20¢ charge on ten percent of the D.A. calls (|0% of |87,425 calls which are estimated to be in excess of a 5-call allowance) would result in a net figure of $23,205. The $23,205 compared to $23,278 under the test period calculations above indicate a $73 difference or what might be termed a washout.

Mr. Millard N. Carpenter, III, Rate Analyst for the Commission, testified regarding a 2 |/2 to | ratio between business one-party and residence one-party services; rates for rotary line and key trunks; PBX trunks; service charges

(installation and changes); 20¢ local pay station calls; semipublic rates; extension line mileage; and miscellaneous services. Mr. Carpenter differed with the Company's approach on most of these items, contending his approach resulted in more equitable rate and charge treatment and followed uniformity with other rate making by the Commission.

Based on the foregoing testimony and exhibits in support thereof, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Citizens Telephone Company:

1. Basic Rate Schedule

   (a) The Commission concludes that the present rate schedule should be revised to increase the ratio between business and residential one-party service to a ratio of approximately 2.5 to 1, a level which the Commission, in its discretion, believes to be just and reasonable.

   (b) The Commission concludes that rates for PBX trunks should bear approximately a 2 to 1 ratio with one-party business rates so as to more nearly reflect relative value of service and relative costs.

2. The Commission concludes that the monthly charge for equipment in standard colors should be cancelled and the revenue now produced should be obtained through basic rates.

3. Coin Telephone Service

   The Commission concludes that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been numerous increases in the cost of providing this service and that the charge has not been increased for over 20 years.

4. Service Charges

   The Commission concludes that there is a need to increase service charges to a level that more closely approximates the level of costs involved in doing the work and finds that those service charges proposed by Applicant should be implemented.

5. Directory Assistance Charges

   Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific

services used. A large number of calls are made for information that is readily available. This practice places a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to maintain telephone service. An estimated reduction of 60% to 70% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that an allowance of five (5) free calls monthly will adequately provide for the reasonable needs of nearly all subscribers for numbers not otherwise available and that a charge of 20¢ for each local directory assistance request in excess of five (5) calls monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home numbering area. The Commission is of the opinion that a 50% reduction in local directory assistance calling may reasonably be expected. This would result in an annual expense increase of $3,675 and increased revenues of $3,748 when taking into consideration the modified Operator Assistance Agreement resulting in an effect of only $73 on revenue requirements for Citizens.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from D.A. charges. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year or until sufficient information is gathered from other sources. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Refund of Excess Charges

The Commission, by Order issued on October 31, 1975, approved the notice and undertaking filed by Citizens. Pursuant to such notice and undertaking Citizens has been collecting the rates proposed in its Application in this docket from its customers pending the issuance of this Order. By its undertaking, Citizens has agreed and bound itself to refund to its customers at 6% interest all of the increased rates and charges which are in excess of those found to be just and reasonable by the Commission. Since the increased rates and charges being charged by Citizens are in excess of those herein determined to be just and reasonable, the Commission concludes that Citizens should be required to make proper refund of such excess charges.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Citizens Telephone Company, be, and hereby is, authorized to increase its North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $238,062 based upon stations and operations as of June 30, 1975, as hereinafter set forth in Appendix "A."

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendix "A" hereto attached, which will produce additional gross revenues of $238,062 from said end of test period customers, be, and are hereby, approved to be charged and implemented by Citizens Telephone Company, effective on service to be rendered on and after the date of this order, except as noted hereinafter.

3. That Citizens Telephone Company shall file, within seven days of this Order, the necessary revised tariffs reflecting the above increases and regulations, said tariffs to be effective as of the dates prescribed above.

4. That Citizens Telephone Company is authorized to begin directory assistance charges in accordance with Appendix "A" attached to this Order after June 30, 1976, and after the NOTICE attached as Appendix "B" is given to its subscribers. That Citizens Telephone Company shall, before June 15, 1976, mail as a bill insert or direct mailing the NOTICE attached as Appendix "B" to all subscribers and shall, commencing July 15, 1976, mail as a bill insert the REMINDER attached as Appendix "B" to all subscribers. Should the Company be unable to initiate directory assistance charges on July 1, 1976, it should so advise the Commission and make appropriate changes in the dates in the NOTICE, the REMINDER, and the mailing dates given hereinabove.

Further, that Citizens Telephone Company shall use the directory information as included in Appendix "C" to place in its telephone directories relating to directory assistance charges.

5. That Citizens Telephone Company shall file monthly reports on the conversion of coin pay stations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

6. That Citizens shall immediately institute steps to refund with 6% interest all increased revenues collected from its customers under the undertaking in this docket to the extent the increased revenues collected from its customers exceed those rates and revenues found herein to be just and reasonable. Citizens shall file reports with the Commission during the first ten days of each month until the refunds have been completed advising the Commission of the amount of refund due on each class of service, the number of customers who are due refunds, the dollar amount of refunds which have been made with interest set out separately, and the number of customers who have received refunds.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
CITIZENS TELEPHONE COMPANY
DOCKET NO. P-12, SUB 65

MONTHLY EXCHANGE RATES

| | |
|---|---|
| Business - One Party | $20.85 |
| Residence - One Party | 8.00 |
| Semipublic Telephone Service (No commission) | 100% of B-1 Rate |
| Public Telephone Message Rates | $ .20 |
| Semipublic Message Rates | .20 |
| Rotary Lines - In Use or Reserved | 2.00 |
| Special Circuits (Each Cable Pair) | min. 8.00 |
| Private Branch Exchange Service Trunks: | |
| Inward Only | 200% of B-1 |
| Outward and Both Way | 200% of B-1 |

## SERVICE CHARGES

| | |
|---|---|
| Installation of Main Stations & Private Lines: | |
| Business and PBX Trunks | $30.00 |
| Tie Lines | 30.00 |
| Residence | 25.00 |
| Installation of Extension Stations: | |
| Business | |
| Inside, if Installer on Premises | 7.50 |
| Inside, if Installer not on Premises | 15.00 |
| Outside | 30.00 |
| PBX.- Inside Stations | |
| Installer on Premises | 10.50 |
| PBX and Centrex - Outside Stations | 25.00 |
| Residence | |
| Inside, Installer on Premises | 5.00 |
| Inside, Installer not on Premises | 7.50 |
| Outside | 17.50 |
| Installation of Howler, Business | 15.00 |
| Installation of Explosion-Proof Atmospheric Telephone Sets | 30.00 |
| Installation of Call Diverter-Residence | 15.00 |
| Installation of Call Diverter-Business | 25.00 |
| Installation or Rearrangement: Business Subscriber Transfer Service | 10.50 |
| Amplifying Equipment for Hard-of-Hearing: Business | 10.50 |
| Installation of Extension Bell, Gong, Bell, Chime Ringer or Buzzer System - Business | 10.50 |
| Key System Station Installations, Moves or Changes: | |
| Six Button Telephone Set | 15.00 |
| Twelve Button Telephone Set | 20.00 |
| Eighteen Button Telephone Set | 25.00 |
| Twenty-four Button Telephone Set | 30.00 |
| Thirty Button Telephone Set | 35.00 |
| Moves and Changes: | |
| Business Main Station | 15.00 |
| Business Inside Extension | 10.50 |
| Business, PBX, or Centrex Outside Extensions | 25.00 |
| Residence - Outside Extensions | 15.00 |

## COLOR TELEPHONE EQUIPMENT

No charge for color shall be applicable for telephone equipment furnished in standard colors.

## DIRECTORY ASSISTANCE SERVICE

1. General

The Company furnishes Directory Assistance Service for the purpose of aiding subscribers in obtaining telephone numbers.

When a party in North Carolina requests assistance in obtaining telephone numbers of subscribers who are located (1) within the same local calling area as the calling party or (2) within the same Home Numbering Plan Area as the calling party, the charges set forth below apply.

2. Rates

a. A charge of $.20 is applicable for each direct dialed inquiry for directory assistance except as noted below; each number requested constitutes an inquiry except that the first two numbers requested on any one call constitute only one inquiry.

b. In order to make allowance for a reasonable need for directory assistance including numbers not in the directory, directory inaccessibility, and other similar conditions, no charge applies for the first five direct dialed inquiries per month per main telephone or PBX trunk or for the first direct dialed inquiry per month per Centrex main station.

The allowance is cumulative for all group-billed services furnished to the same subscriber within an exchange.

c. Each subscriber shall be allowed, in addition to the five-call allowance, one toll directory assistance inquiry (within the home area code) for each sent paid home area code toll call appearing on the subscriber's bill.

d. Charges for Directory Assistance Service are not applicable to inquiries received from Public and Semipublic telephones or to inquiries from services furnished for subscribers or primary users who are blind or handicapped to the extent they are unable to use the directory.

e. Exchanges where charges for inquiries to directory assistance temporarily are not applicable to any subscribers due to lack of facilities are specified below: (company to fill in appropriate exchanges)

APPENDIX "E"
CITIZENS TELEPHONE COMPANY
DOCKET NO. P-12, SUB 65

NOTICE FOR 704 AREA SUBSCRIBERS

After June 30, 1976, requests for directory assistance in the 704 area (local and long distance) in excess of your allowance will be charged at 20¢ per call. Your allowance is five free calls monthly per line plus one free 704 area long distance directory assistance call (555-1212) for each long distance call to a 704 area number made from and charged to your telephone. There is no charge for directory assistance calls outside of the 704 area code.

REMINDER FOR 704 AREA SUBSCRIBERS

Since July 1, 1976, requests for directory assistance in the 704 area (local and long distance) in excess of your allowance are charged at 20¢ per call. Your allowance is five free calls monthly per line plus one free 704 area long distance directory assistance call (555-1212) for each long distance call to a 704 area number made from and charged to your telephone. There is no charge for directory assistance calls outside of the 704 area code.

DIRECTORY ASSISTANCE INFORMATION TO BE USED IN TELEPHONE DIRECTORIES

DIRECTORY ASSISTANCE CHARGING

Requests for directory assistance in the 704 calling area (local 411 and long distance 555-1212) in excess of five-call allowance, per billing period, are charged for at 20¢ per call.

For each 704 long distance call made from and billed to a subscriber line, one free 704-555-1212 directory assistance call will be allowed within the same billing period without charge.

There is no charge for directory assistance outside of the 704 area code.

For further information, contact your business office.

DOCKET NO. P-12, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Citizens Telephone Company for an Adjustment of its Intrastate Rates and Charges | ) ORDER CLARIFYING<br>) APPENDIX OF RATES;<br>) EXTENDING EFFECTIVE DATE |

BY THE COMMISSION: Upon consideration of the record herein and the Order Granting Partial Increase issued by the Commission on June 17, 1976, and the letter of June 18, 1976, from Thomas R. Eller, Jr., as counsel for the applicant Citizens Telephone Company, requesting clarification, among other things, of the effect of the rates published in Appendix "A" of said Order, and the Commission being of the opinion that ordering paragraph 2 of said Order of June 17, 1976, be amended to make it clear that rates and charges not set forth in the Appendix to said Order will remain in effect as they were on May 3, 1976, prior to the filing of said application herein, and the Commission being further of the opinion that the effective date of the Order should be extended to June 25, 1976, in order to allow additional time to implement the provisions of said Order.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That ordering paragraph 2 of the Order of June 17, 1976, on page 38 of said Order is hereby amended by changing the period at the end thereof to a semi-colon and by adding at the end of said paragraph the following: "all other rates and charges not included or covered in said Appendix "A" shall be and remain those rates in effect on September 3, 1975, prior to the filing of the application herein, and to the extent not approved herein, the increases applied for in this application and put into effect under an Undertaking are hereby denied."

2. That said Order issued on June 17, 1976, is hereby amended by changing the day of issue of said Order on page 38* thereof to June 25, 1976, so that the date of issuance and the effective date of said order shall be June 25, 1976, to the same extent as if said order was issued anew on June 25, 1976, and the time for computing the effective date of the rates fixed herein and the provisions for review of said order shall be based on the new issuance date of said order of June 25, 1976, and in all other respects said order shall remain in full force and effect as amended herein.

ISSUED BY ORDER OF THE COMMISSION.

This 25th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-12, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Citizens Telephone Company for an ) ERRATA
Adjustment of its Intrastate Rates and Charges ) ORDER

BY THE COMMISSION: On June 25, 1976, the Commission issued Order Clarifying Appendix of Rates; Extending Effective Date in the above proceeding. It has come to the Commission's attention that an error was made in the date set out in paragraph 1, line 11, of "May 3, 1976" and the Commission is of the opinion that this error in said Order should be corrected.

IT IS, THEREFORE, ORDERED that the date of "May 3, 1976," in paragraph 1, line 11, of the Order of June 25, 1976, be corrected to read "September 3, 1975." In all other respects, the Commission's Order of June 25, 1976, in this Docket shall be and remain in full force and effect as written.

ISSUED BY ORDER OF THE COMMISSION.

This 29th day of June, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-19, SUB 163

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of General Telephone Company ) ORDER
of the Southeast for Authority to Increase ) SETTING
its Rates and Charges in its Service Area ) RATES
within North Carolina )

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on April 13-16, 20, 22 and May 21, 1976, and in the Durham County Office Building, Durham, North Carolina, on April 21, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners Tenney I. Deane, Jr., and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

A. H. Graham, Jr., Newsom, Graham, Strayhorn, Hedrick, Murray and Bryson, Attorneys at Law, Post Office Box 2088, Durham, North Carolina 27702

Ward W. Wueste, Jr., General Counsel, General Telephone Company of the Southeast, Post Office Box 1412, Durham, North Carolina 27702

William C. Fleming, Assistant General Counsel, General Telephone Company of the Southeast, Post Office Box 1412, Durham, North Carolina 27702

John Robert Jones, Power, Jones and Schneider, Attorneys at Law, 100 E. Broad Street, Columbus, Ohio 43215
Appearing for: General Telephone Company of the Southeast

For the Intervenors:

Claude V. Jones, Attorney at Law, Central Carolina Bank Building, 111 Corcoran Street, Durham, North Carolina 27702

William I. Thornton, Jr., City Attorney, Post Office Box 2251, City Hall, Durham, North Carolina 27703
Appearing for: The City of Durham

Jesse Brake, Assistant Attorney General, and Richard Griffin, Assistant Attorney General, 701 Raleigh Building, Raleigh, North Carolina 27601
Appearing for: The Using and Consuming Public

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On December 16, 1975, General Telephone Company of the Southeast (hereinafter called the Applicant, the Company, General, or GTSE) filed an application with the Commission for authority to increase

its rates and charges for intrastate telephone service in North Carolina. This increase in rates and charges was designed to produce approximately $3,970,532 in additional annual revenues from the Company's North Carolina intrastate operations when applied to a test year consisting of the twelve months ended June 30, 1975. The Company requested that such increased rates be allowed to take effect as of January 20, 1976.

The application alleged and contended that the $3,970,532 in additional annual revenues was necessary in order to improve the Company's earnings, keep pace with increased operating expenses, provide a sufficient rate of return on its investment to compete in the market for capital funds, and maintain its facilities and services in accordance with the requirements of its North Carolina customers.

The Commission, being of the opinion that the increases in rates and charges proposed by General herein were matters affecting the public interest, by Order issued January 12, 1976, declared the matter to be a general rate case pursuant to G. S. 62-137; suspended the proposed rate increase until further Order pursuant to G. S. 62-134; established the test period as the year ended June 30, 1975; set the matter for hearing before the Commission beginning Tuesday, April 13, 1976, with the burden of proof being placed on General to show that the proposed increase in rates and charges was just and reasonable as required by G. S. 62-75; required General to give notice of such hearing by newspaper publication and appropriate bill insert; and required protests or interventions to be filed in accordance with Rules R1-6 and R1-19 of the Commission's Rules and Regulations.

On January 22, 1976, a petition for leave to intervene was filed by counsel for the City of Durham. By Order issued January 23, 1976, the Commission allowed such petition.

On January 28, 1976, notice of intervention was given by the Attorney General of North Carolina. By Order issued January 30, 1976, the Commission recognized the intervention of the Attorney General.

On February 25, 1976, General filed a motion for leave to amend the above application in order to allege that since December 31, 1973, General's intrastate revenues, adjusted for the rates approved in Docket No. P-19, Sub 158, have increased by only $2.36 per average primary telephone for the twelve months ended June 30, 1975, instead of $9.54 per average primary telephone as General had originally alleged. The Commission, by Order of March 8, 1976, allowed the motion and made the amendment part of the application in this docket.

By motion filed with the Commission on April 5, 1976, the City of Durham, intervenor, requested the Commission to give further consideration to the requirement of optional

measured service by the Company. On April 9, 1976, General filed its response in opposition to the motion filed by the City of Durham. The Commission, being of the opinion that no new matter, data, or information was contained in the motion and that the issues which the City of Durham sought to explore by its motion were not appropriate for consideration in this docket, denied the motion by Order issued April 9, 1976.

On April 5, 1976, the City of Durham filed a motion requesting the Commission to hold one or more hearings, including one or more evening sessions, in Durham solely on the issue of the quality of telephone service being offered by General. The Attorney General on April 6, 1976, filed a motion in support of the motion by the City of Durham. In order to provide a more convenient forum for General's subscribers in Durham to offer testimony with regard to the quality of service being provided by General, the Commission by Order issued on April 9, 1976, allowed the above motions in part and scheduled daytime hearings for Wednesday, April 21, 1976, in Durham, North Carolina.

The matter came on for hearing, as previously ordered by the Commission, on April 13, 1976, at 10:00 a.m. for the purpose of presenting the Applicant's evidence. The Applicant offered the testimony and exhibits of the following witnesses:

(1) Lyle E. Orstad, Treasurer of General Telephone Company of the Southeast, testified concerning the cost of capital and fair rate of return to GTSE;

(2) Gerald F. Gawronski, Vice President-Controller of GTSE, testified concerning the results of test year operations, as adjusted for known and measurable changes, reflected on the Company's books;

(3) Claude O. Sykes, Vice President-General Manager of GTSE, testified concerning the quality of service provided by General;

(4) Kent B. Foster, General Plant Extension Engineer, testified about the planning and construction techniques used by the Company to achieve economical placement of telephone plant;

(5) Norman B. Dennis, General Valuation and Cost Engineer, testified and presented exhibits concerning the results of a net trended original cost valuation study and later testified in rebuttal to the plant valuation study of Commission Staff Witness Clapp;

(6) James W. Hevener, Revenues and Earnings Director, gave his opinion of the fair value of General's property in North Carolina devoted to intrastate operations and offered the Company's proposed schedule of rates;

(7) Quentin T. Prindle, Traffic Manager-Studies, testified concerning General's proposal to charge separately for directory assistance service;

(8) Jack Heape, Construction and Supply Director, described the Applicant's purchasing policies and procedures;

(9) Spiro B. Kircos, Assistant Controller, GTE Automatic Electric, Inc., testified regarding the relationship between GTE Automatic Electric, Inc., and telephone operating subsidiaries of General Telephone and Electronics Corporation, such as GTSE;

(10) Wilbur S. Duncan, a partner in the public accounting firm of Arthur Anderson & Co., testified as to generally accepted accounting procedures and the propriety of using rate of return on investment as a basis for comparing the profitability of one company to that of another;

(11) George M. Weber, Vice President-Controller, General Telephone Directory Company, testified concerning the operations of the Directory Company and its relationship to GTSE; and

(12) Dr. Paul J. Garfield, independent economic consultant, testified in rebuttal to the double leverage method used by Commission Staff Witness Rosenberg and Attorney General Witness Baughcum to determine the cost of equity capital for GTSE.

The Commission Staff offered the testimony and exhibits of the following witnesses:

(1) Hugh L. Gerringer, Staff Telephone Toll and Settlements Engineer, testified concerning the appropriate division between the Company's interstate and intrastate operations in North Carolina, the status of intrastate toll settlements for the test period, and the determination of the Company's normalized intrastate toll revenues for the test period;

(2) William W. Winters, Staff Accountant, presented his analysis of General's books and records for the test year in an exhibit entitled "Study of Original Cost Net Investment, Revenues and Expenses";

(3) Allen L. Clapp, Chief, Operations Analysis Section of the Staff, testified concerning the valuation of General's plant in service in North Carolina;

(4) James S. Compton, Staff Telephone Engineer, testified concerning his review and evaluation of the Company's central office equipment engineering, plant margins,

reasonableness of plant investment, and plant expenditures during the test period;

(5) Benjamin R. Turner, Jr., Staff Telephone Engineer, testified concerning his review and evaluation of the quality of telephone service being provided by General;

(6) Gene A. Clemmons, Chief, Telephone Service Section of the Staff, testified concerning the relationship of prices of equipment and plant items purchased by General from its affiliated supplier GTE Automatic Electric, Inc., to comparable items purchased by other telephone companies operating in North Carolina;

(7) Dr. Dennis W. Goins, Staff Economist, testified concerning the reasonableness of prices for equipment and supplies purchased by General from GTE Automatic Electric, Inc., the reasonableness of the return on sales earned by GTE Automatic Electric, Inc., on affiliated sales and the reasonableness of the return on net worth earned by GTE Automatic Electric, Inc., on affiliated sales during the year 1974;

(8) Nancy B. Bright, Staff Accountant, presented the results of her investigation of transactions between GTSE and its affiliated companies, GTE Automatic Electric, Inc., and General Telephone Directory Company;

(9) Vern W. Chase, Chief, Telephone Rate Section of the Staff, testified concerning General's proposed rate design, including directory assistance charges; and

(10) Edwin A. Rosenberg, Staff Economist, testified concerning General's cost of capital and fair rate of return.

The City of Durham, intervenor, offered the testimony and exhibits of Dr. Richard H. Pettway, an independent economic consultant, who presented the results of his study of General's cost of capital and the fair rate of return to the Company on its North Carolina operations.

The Attorney General offered the testimony and exhibits of Marshal Alan Baughcum, an economist employed by the North Carolina Department of Justice, concerning the cost of capital and fair rate of return for the Company.

The Commission conducted a hearing in Durham, North Carolina, on April 21, 1976, for the purpose of receiving testimony from the using and consuming public with regard to the quality of telephone service being provided by GTSE. Twenty-six (26) witnesses appeared: Hallie Cruez, Lona Paschall, Justice Manning, Haywood Royster, Mable R. Lee, Oris Ellington, Ollie Vickers, John S. Curtiss, Carolyn

Knoepfel, Autra Johnson, Mamie Pretty, Hattie Clegg, Blanch Mangum, Mrs. Beauford Myles, Deborah Fish, Mrs. Theodclious Allen, Mattie Sellers, Margaret Stover, Rachael Couch, Carcmae Crawford, Michael Jansen, Lola Clark, Donah Upchurch, Saleena Miller, Effie Thompson, and Mrs. K. D. Curtis. One expressed satisfaction with the quality of service provided by the Company and support for the proposed rate increase; the remainder voiced various complaints regarding telephone service and opposition to the proposed increase.

With the completion of testimony and cross-examination on April 22, 1976, the official record of evidence in this proceeding was closed. The presiding Commissioner, Mr. Purrington, announced that oral arguments, in lieu of briefs, would be heard by the Commission on Friday, May 21, 1976.

At 9:30 a.m. on May 21, 1976, the hearings were reconvened in the Commission Hearing Room. Oral arguments were made by the Company, the Attorney General, and the City of Durham regarding the major issues which the Commission must decide from the evidence in this docket.

Based on the foregoing, the verified application, the testimony and exhibits received into evidence at the hearing, and the entire Commission record with regard to this proceeding, the Commission now makes the following

## FINDINGS OF FACT

1. That General Telephone Company of the Southeast (General) is a Virginia corporation authorized to do business in the State of North Carolina and is subject to the jurisdiction of this Commission. General is lawfully before this Commission based upon its application for a general increase in its North Carolina rates and charges, pursuant to the jurisdiction and authority conferred upon the Commission by the Public Utilities Act (Chapter 62, North Carolina General Statutes).

2. That, as a duly franchised public utility, General provides telephone service to North Carolina exchanges in Durham, Creedmoor, Monroe, Altan, and Goose Creek. General also furnishes telephone service to exchanges located in the states of Virginia, West Virginia, South Carolina, Georgia, Tennessee, and Alabama. General is a wholly-owned subsidiary of General Telephone and Electronics Corporation (GTE).

3. That the proper test year for use in this proceeding is the twelve-month period ended June 30, 1975. General is seeking an annual increase in its rates and charges to North Carolina customers of $3,970,532 based upon operations during said test year.

4. That the overall quality of telephone service provided by General to its North Carolina customers is adequate.

5. That General's intrastate, original cost net investment in utility plant reflects excessive profits in the amount of $959,000 resulting from intercompany transactions between GTE Automatic Electric, Inc., and General during the period 1957 through 1973. Such net investment should be adjusted to eliminate the excess profits still surviving in General's plant accounts.

6. That the original cost submitted by General of its plant used and useful in providing intrastate telephone service in North Carolina is $79,361,523. From this amount should be deducted the reasonable accumulated provision for depreciation of $14,618,822 and the excess profits from intercorporate sales of $959,000, resulting in a reasonable original cost less depreciation of $63,783,701.

7. That the reasonable allowance for working capital is $430,880.

8. That the reasonable replacement cost less depreciation of General's plant used and useful in providing intrastate telephone service in North Carolina is $77,573,700.

9. That the fair value of General's plant used and useful in providing intrastate telephone service in North Carolina should be derived from giving 2/3 weighting to the reasonable original cost less depreciation of General's plant in service and 1/3 weighting to the depreciated replacement cost of General's utility plant. By this method, using the depreciated original cost of $63,783,701 and the depreciated replacement cost of $77,573,700, the Commission finds that the fair value of General's utility plant devoted to intrastate telephone service in North Carolina is $68,380,367. This fair value includes a reasonable fair value increment of $4,596,666.

10. That the fair value of General's plant in service to its customers within the State of North Carolina at the end of the test year of $68,380,367 plus the reasonable allowance for working capital of $430,880 yields a reasonable fair value of General's property in service to North Carolina customers of $68,811,247.

11. That General's gross operating revenues should be increased in the amount of $16,007 to account for an unreasonable level of earnings achieved by General Telephone Directory Company in its transactions with GTSE in North Carolina.

12. That General's approximate gross revenues for the test year, after accounting and pro forma adjustments, under the present rates are $22,798,555 and under the Company-

proposed rates would have been $26,735,735 after annualization to year-end revenues.

13. That the reasonable level of General's operating expenses for the test year, after accounting and pro forma adjustments, is $17,743,450.

14. That the capital structure which is proper for use in this proceeding is the following:

| | Percent |
|---|---|
| Total Debt | 49.03 |
| Preferred Stock | .74 |
| Common Equity | 42.94 |
| Cost-free Capital | 7.29 |
| | 100.00% |

15. That when the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total Debt | 45.76 |
| Preferred Stock | .69 |
| Fair Value Common Equity | 46.75 |
| Cost-free Capital | 6.80 |
| | 100.00% |

16. That the Company's original cost equity ratio is 42.94%, and the fair value equity ratio is 46.75%.

17. That General should be allowed to earn a rate of return of 8.85% on the fair value of the Company's property used and useful in providing service to its customers in North Carolina.

18. That the proper embedded cost rates of General's total debt and preferred stock are 7.70% and 4.64%, respectively. The 8.85% return on fair value investment and the returns of 7.70% on total debt and 4.64% on preferred stock yield a rate of return on the Company's fair value equity, including both the book equity and the fair value increment, of 11.33%.

19. That the proper rate design for General should be structured in accordance with Appendices "A" and "B" attached hereto. The schedule of rates and charges set forth in these Appendices is found to be just and reasonable, and such schedule will generate additional annual local service revenue of approximately $2,270,987. This rate design includes a separate charge for directory assistance inquiries, which the Commission finds just and reasonable as a means of curtailing unnecessary growth in call volumes and costs related to directory assistance service and of requiring those subscribers who use the service to bear the costs incurred to provide the service.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2 AND 3

The evidence for these findings is contained in the verified application, the Order setting hearing, the testimony of Company Witnesses Sykes, Orstad, Gawronski and Hevener and Staff Witnesses Winters and Chase, and G. S. 62-133. These findings are essentially informational, procedural and jurisdictional in nature and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence concerning the quality of service being provided by GTSE to its subscribers consists of the testimony and exhibits of Company Witnesses Sykes and Foster, the testimony and exhibits of Staff Witnesses Turner and Compton, and the testimony of twenty-six (26) public witnesses at the hearing held in Durham.

Company Witness Claude O. Sykes, Vice President - General Manager of GTSE, testified concerning his responsibility to provide a high quality of service and to maintain telephone plant facilities at a level sufficient to insure that the Company is prepared to meet the service requests of its customers at the time and place desired. He demonstrated by exhibit that the Company had been meeting or exceeding the service standards established by the Commission and outlined the steps being taken by the Company to meet its present and future customer requirements. He described the additional construction necessary to keep abreast of such requirements and the results of his cost control investigation in the areas of capital investment, installation, station repair, central office maintenance, outside plant repair, service office procedure and business office operating practices.

Company Witness Kent B. Foster, General Plant Extension Engineer for GTSE, testified concerning the reasonableness of telephone plant available at the end of the test period, based upon sound engineering practices and expectation of customer requirements. He described the methods used by GTSE to determine switching equipment requirements in the central offices. He testified that the decline in the national economy, as reflected in construction permits and the unemployment rate in the Durham area, has had the effect of decreasing the Company's expected growth rate in all of the Company's offices, with the exception of two small exchanges. He showed by exhibit that the Company's actual growth in main stations during the test period was less than 50% of the growth which had been projected when the engineering and installation target dates necessary to meet such growth were determined.

Mr. James S. Compton, Telephone Service Engineer of the Commission Staff, testified concerning his study and review of the Company's central office plant engineering, plant margins, reasonableness of plant investment and verification

of plant expenditures during the test year. His testimony concerning main station growth trends tended to confirm the testimony of Company Witness Foster. He testified that excess central office equipment represented less than 1% of total central office investment, and he recommended no adjustment for such excess. His exhibits reflected a gradual rise in the cost of plant per main station added since 1967, a decline in average traffic employees required since 1971, an increase in the average number of main stations per commercial employee since 1972, a gradual increase in commercial and maintenance expenses per average main station since 1968, a gradual increase in general office salaries and expenses since 1972, and a dramatic increase in other operating expenses since 1973.

Mr. Benjamin R. Turner, Telephone Service Engineer of the Commission Staff, presented the results of the Staff's evaluation of the quality of telephone service being provided by GTSE and offered 11 exhibits in support of his testimony. The Staff's evaluation indicated that the Company was meeting the service objective standards prescribed by the Commission. Some problems were observed and brought to the Company's attention for correction. These included the following: fifteen (15) irregular plant conditions were discovered in pay station tests, even though the Commission's objective for pay stations out of service was met; Company repair clerks would not accept trouble reports on pay stations if the caller could not supply the pay station's telephone number; and the Commission's objective for business office answer time was not met in the Durham District.

Of the twenty-six witnesses who testified at the public hearing in Durham, one did not have a telephone and one was satisfied with the present service. Of the remaining witnesses, most testified that the proposed rates were in excess of what they could readily afford to pay. Service complaints most frequently mentioned were the following: static noise, music and voices in the background, and other persons talking on a private line; difficulties in getting correctly-dialed local calls completed; receiving calls for other persons or other numbers; lack of a dial tone - line dead; service installation problems and billing errors.

Based upon the foregoing, the Commission concludes that the overall level of service quality being provided by GTSE to its subscribers is adequate. However, the Commission further concludes that the Company should take corrective action to eliminate difficulties and complaints of the type enumerated by the public witnesses and other such complaints coming to the attention of the Company. In addition, GTSE should also take action to improve the service weaknesses described by Staff Witness Turner.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Company Witnesses Kircos and Duncan and Staff Witnesses Clemmons, Goins and Bright testified concerning affiliated company transactions.

Witness Kircos testified concerning the operations of GTE Automatic Electric and its relationship to the GTE telephone companies. Mr. Kircos stated that AE's prices to both nonaffiliates and affiliates are the result of competitive forces, with prices to affiliates generally being lower than competitive prices, often because of quantity discounts.

Mr. Kircos explained that affiliates benefit from GTE's consolidated tax procedure through further price reductions on capitalized items. AE determines the percent of Federal income taxes included in its sales to affiliated companies. Affiliates then credit their plant accounts by the amount of Federal income taxes included in AE's prices. AE calculates its income tax without regard to intercompany elimination of profits and remits it to GTE. On the basis of credits to plant accounts, GTE then makes remittances to affiliates.

Witness Kircos' computation of AE's return on equity includes pro forma adjustments increasing common equity to include the intangible asset "goodwill." Witness Kircos maintained that these adjustments are in keeping with the American Institute of Certified Public Accountants Accounting Principles Board Opinion Nos. 16 and 17 and stated that, if Opinion Nos. 16 and 17 had been in effect in 1955 when GTE acquired AE, GTE would have been required to record its investment by the purchase method (under which the assets of the acquired company are restated) instead of the pooling of interest method (which allows the acquired company's assets to be stated at historical cost). Witness Duncan testified that the purchase method is preferable and is commonly used today. According to the testimony of Staff Witness Bright, however, Opinion Nos. 16 and 17 were issued in August of 1970 and specifically state that they are not to be applied retroactively. Moreover, at the time of the acquisition, GTE had the option of recording its investment in AE under either method and elected to use the pooling of interest method, presumably to its advantage.

Shown on Kircos Exhibit 1, Schedule 10, AE's rates of return for 1973 and 1974 are 12.7% and 11.4%, compared to 16.2% and 14.5% for the same period shown in Bright Exhibit 1, Schedule 8.

In contrast to Witness Kircos, Witness Bright testified that a less than arm's-length relationship exists between GTE Automatic Electric, Inc. (AE), and the GTE system affiliated telephone operating companies, including the North Carolina Division, stating that the North Carolina Division purchased approximately 79% of its supplies and equipment from AE for the six-year period, 1969 through 1974. Witness Bright also testified that General's

affiliated domestic telephone companies have purchased over 69% of the total equipment and supplies sold by AE during the 18-year period, 1957 through 1974. Over 78% of AE's total sales to domestic telephone companies have been to affiliated companies. Sales by AE to the domestic affiliated telephone companies have increased from a low of approximately 52% in 1957 to a high of approximately 80% in 1971. Bright Exhibit 1, Schedule 7, shows that during the period 1957 through 1974, AE earned an average return on average shareholder equity of approximately 19.8%. The return on average shareholder equity ranged from a high of 40.8% in 1965 to a low of 13.9% in 1970.

Witness Bright testified that she made a study of 77 companies, 75 of which comprise the electrical equipment/electronics industry as grouped by The Value Line Investment Survey and two of which manufacture telephone equipment. Her Exhibit 1, Schedule 8, shows that for the years 1973 and 1974 the weighted average earnings on equity of these 77 companies were 14.5% and 10.7%, respectively, and that these 77 companies had a weighted average debt percent to total capital for 1973 of 27.0% and for 1974 of 28.6%. Earnings of AE and the weighted average debt percent to total capital for 1973 and 1974 compared with the 77 companies, Western Electric Company, and Automatic Electric Company appear as follows:

| Company | Return on Net Worth | | Funded Debt % Total Capital | |
|---|---|---|---|---|
| | 1973 | 1974 | 1973 | 1974 |
| 77 Companies | 14.5% | 10.7% | 27.0% | 28.6% |
| Western Electric | 10.5% | 9.6% | 23.9% | 23.4% |
| Automatic Electric | 16.2% | 14.5% | 10.2% | 9.0% |

Staff Witness Bright proposed an adjustment to reduce General's intrastate plant by $959,000 for excess profits related to the years 1957 through 1973, based on the Commission's Order in Docket No. P-19, Sub 158. That Order concluded that any rate of return on equity in excess of 12% earned by AE on its intercorporate transfers of equipment and supplies to General was unjust and unreasonable and adjusted the plant accordingly. The $959,000 was calculated by updating the data presented in Docket No. P-19, Sub 158, relating to the years 1957 through 1973, recognizing additional depreciation as well as retirements of property since 1973. The Commission hereby takes judicial notice of its findings and conclusions in Docket No. P-19, Sub 158, regarding intercorporate transactions. Witness Bright did not propose an adjustment for excess profits for plant purchased from AE in 1974.

Witness Clemmons presented testimony and exhibits comparing prices for equipment and plant items purchased by GTSE from its affiliated supplier Automatic Electric (AE) and prices for comparable items purchased by other telephone companies operating in North Carolina. Clemmons Exhibit 1

shows that during the period 1967 through 1974 Southern Bell was able to purchase cable from its affiliate Western Electric at a substantially lower price than that charged General by AE. Exhibit 1 further shows that during this period independent telephone companies could purchase cable at a price equal to or lower than the price paid by General. Witness Clemmons noted, however, that although there is still a substantial difference in the cable price paid by Southern Bell and the price paid by General, his price comparisons indicate an effort on the part of AE to sell cable to its affiliates at a lower price during 1974 than the price paid by nonaffiliates. Price comparisons for telephone and miscellaneous plant items shown on Clemmons Exhibit 2 indicate a similar trend.

Witness Goins analyzed affiliated transactions between General and AE during 1974. Using data on the 75 electrical equipment/electronics manufacturers listed in Bright Exhibit No. 1, Schedule 8, Dr. Goins computed the mean and the standard error of the mean for the return on sales and the return on net worth for 1973, 1974, and 1973-74. He then computed confidence intervals around the mean returns on sales and net worth. The results of Witness Goins' confidence interval analysis showed that, while AE's return on sales exceeded that earned by Western Electric and the other 75 manufacturers, AE's return on net worth in 1974 fell within the 1% confidence interval.

Dr. Goins further testified that when business conditions change, the use of financial leverage magnifies the impact on the stockholders of changes in the return on assets. Thus, he hypothesized that, given the relatively poor business conditions in 1973 and 1974, rates of return on net worth for the 75 manufacturers were inversely related to the debt/total capital ratios (leverage factors).

He then performed a regression analysis to test the influence of the leverage factor on the estimated rates of return. He regressed returns on sales and net worth for 1973, 1974, and 1973-74 using the leverage factors of the 75 companies and found that poor business conditions in 1973 and 1974 did tend to bias downward the estimated returns of firms with high leverage factors.

Using the predictive operations derived in his regression analysis, Dr. Goins calculated the hypothetical rates of return on sales for AE and Western Electric for the years 1973, 1974, and 1973-74. He compared the predicted with the actual returns and concluded that the returns earned by AE in 1974 were not excessive when the impact of business conditions on returns earned by firms with different leverage factors is considered. Finding no persuasive evidence of excessive transfer prices between AE and General in 1974, Witness Goins recommended that no adjustment be made to General's rate base to eliminate excess profits from affiliated transactions for the year 1974.

In light of the Commission's Order in Docket No. P-19, Sub 158, in which an adjustment was made to eliminate excess profits from the rate base, Witness Goins made no analysis or recommendation insofar as the years 1957 through 1973 are concerned.

While the Commission, in Docket No. P-19, Sub 158, found that Automatic Electric had earned excess profits on its transactions with GTSE during the period 1957 through 1973, the evidence in this docket shows that the differential between prices charged by Western Electric to its affiliates and the prices charged by AE to its affiliates (including GTSE) decreased in 1974 and that, when analyzed with rates of return earned by Western Electric and other manufacturers, the returns earned by AE in 1974 do not appear to have been excessive. The Commission therefore concludes that no adjustment should be made to General's plant accounts for excess profits on purchases from Automatic Electric during 1974.

With respect to Witness Bright's proposed $959,000 adjustment for excess profits earned by AE on affiliated sales during 1957 through 1973, the Commission concludes that this issue was decided in its Order Granting Partial Increases in Rates and Charges, Docket No. P-19, Sub 158, from which no appeal was taken, and that no new evidence has been presented in this docket which would affect the Commission's prior decision. The Commission therefore concludes that Witness Bright's adjustment of $959,000 should be made in order to update the excess profits adjustment which the Commission found fair and reasonable in Docket No. P-19, Sub 158, by recognizing additional depreciation expense and plant retirements which have occurred since 1973.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company Witness Gawronski and Staff Witness Winters presented testimony and exhibits concerning the original cost of General's intrastate net telephone plant in service. The following chart summarizes the amount which each of the witnesses contends is proper for this item:

| Item | Company Witness Gawronski | Staff Witness Winters |
|---|---|---|
| Investment in telephone plant in service | $79,361,523 | $79,361,523 |
| Deduct: | | |
| Accumulated depreciation | 14,618,822 | 14,618,822 |
| Excess profits | | 959,000 |
| Net telephone plant in service | $64,742,701 | $63,783,701 |

Both witnesses are in agreement that the investment in telephone plant in service is $79,361,523 and the accumulated depreciation is $14,618,822.

The witnesses disagree in only one respect: excess profits. Staff Witness Winters made an adjustment of $959,000 to eliminate from the plant accounts excess profits on plant purchased from GTE Automatic Electric (AE) during the period 1957-1973. The Commission has found in Finding of Fact No. 5 that there exists in the plant accounts $959,000 of excess profits on plant purchased from AE. The Commission, therefore, concludes that the reasonable net original cost of General's intrastate telephone plant in service is $63,783,701, consisting of total investment in telephone plant in service of $79,361,523 less accumulated depreciation of $14,618,822 and excess profits on purchases from AE of $959,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Staff Witness Winters and Company Witness Gawronski each presented a different amount for the working capital allowance.

Company Witness Gawronski testified that he determined the working capital allowance by adding the North Carolina intrastate amount of material and supplies, a cash allowance of 1/12 of operating expenses (excluding depreciation and taxes), compensating bank balances, less average tax accruals and average customer deposits, for a total working capital allowance of $383,655. Witness Gawronski, in calculating his average tax accruals of $1,252,747, included the effects of his pro forma and end-of-period adjustments to taxes but did not include accrued federal income taxes which were applicable to periods prior to the test year.

Staff Witness Winters presented a working capital allowance of $444,865, consisting of material and supplies, compensating bank balances, average prepayments, a cash allowance of 1/12 of operating expenses (excluding depreciation and taxes), less average tax accruals and end-of-period customer deposits. In calculating his average tax accruals of $1,203,047, Witness Winters included the accrued Federal income taxes applicable to prior years going back to and including the year 1970. Witness Winters included the accrued income taxes applicable to 1969 and earlier years in his computation of cost-free capital. Witness Winters excluded from his calculation of average tax accruals intrastate deferred income taxes in the amount of $206,096 which had been improperly classified on the books as accrued income taxes. Witness Winters reclassified this amount as deferred income taxes.

The Commission finds the amount of accrued taxes as calculated by Staff Witness Winters to be proper. The inclusion of accrued taxes for periods prior to the test period which have not been included in the determination of

cost-free capital should be included in the working capital allowance. These amounts represent funds collected from the ratepayers in excess of the Company's actual Federal income tax expense for prior years. The ratepayers should get the benefit of these funds through the Company's working capital allowance.

The Commission concludes that, consistent with its other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Winters should be used in this case. The allowance for working capital should be determined by adding end-of-period materials and supplies, end-of-period compensating bank balances, cash equal to 1/12 of operating expenses (excluding depreciation and taxes), and average prepayments, less average tax accruals (as calculated by Staff Witness Winters) and end-of-period customer deposits.

In its Evidence and Conclusions for Finding of Fact No. 13, infra, the Commission concluded that operating expenses should be reduced by $167,825 to account for operator expense and operator office agreement savings resulting from implementation of the directory assistance charge proposed by the Company. Taking 1/12 of this figure ($167,825 X 1/12 = $13,985) and subtracting it from the working capital allowance proposed by Witness Winters ($444,865 - 13,985), the Commission concludes that the reasonable allowance for working capital is $430,880.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Although the term "replacement cost" envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in the art of telephony, trended original cost as presented by Company witnesses is founded upon the premise of duplication of plant as is, with certain inefficiencies and outmoded designs included. While obsolescence can, to an extent, be accounted for in proper depreciation treatment, the economies of scale inherent in the telecommunications industry (e.g., employing one 600-pair cable down a road instead of six 100-pair cables installed over a number of years) are not fully recognized in the trending process. The Staff testimony recognizes this fact but does not offer a recommended adjustment for the economies which would be achieved through "mass impulse" plant construction.

Company Witness Norman B. Dennis, General Valuation and Cost Engineer of General Telephone Company of the Southeast, testified with respect to his determination of the Net Trended Original Cost valuation of General's North Carolina properties used and useful in furnishing telephone service as of June 30, 1975.

Witness Dennis calculated his net trended original cost by (1) trending the original cost of the plant in service from year-of-placement price levels to current price levels and

(2) reducing this trended original cost by that portion of the cost which has been recovered by depreciation expense accruals trended from the price level of the year of accrual to the current price level. The trend factors were developed by Witness Dennis from Company data.

Where actual mortality data was not available from which to age the plant by year of addition, computed mortality was used. The life span method was used to calculate some of the age distributions and the remainder were calculated by using Iowa Survivor Curves. Both the life span method and Iowa Curves are commonly used in the telephone industry where actual mortality data is not available to estimate age distribution.

Witness Dennis made no adjustment for lack of operating utility in older equipment which necessitated repairs, modifications, or replacement for continued proper operation.

Witness Dennis testified that the use of "aged depreciation reserve" to reduce original costs to net value showed the effect of the depreciation expense dollars the Company had been allowed to collect. He testified that, by using theoretical reserve rather than actual reserve, Staff Witness Clapp failed to recognize that early retirements do exist and that they tend to keep the reserve below the theoretical level.

Staff Witness Allen L. Clapp, P.E., Chief of the Operations Analysis Section, Engineering Division, Utilities Commission Staff, testified that the following procedures must be used throughout the study for a trended original cost study to be reliable:

(1) The original cost of plant placed in service in each year must be reduced by the retirements of that vintage plant which have occurred since the original installation.

(2) These surviving original cost dollars must be further reduced by deduction of the depreciation which has occurred against those surviving installations.

(3) The original cost dollars surviving from each year, net of the depreciation which has occurred to the plant placed in that year, must be trended using an index which is properly reflective of the changes in costs, proportions of material and labor, and productivity of both factor inputs and the capabilities of the completed installation over the years being studied. The trending can be accomplished before or after the plant is depreciated as long as both the vintage plant and the vintage depreciation applicable to it are trended with the same index.

Witness Clapp testified that General's replacement cost study contains defects from the beginning which grow through the sequence of calculations and that General's calculation methods result in an inflated net trended original cost. A brief summary of the deficiencies which Witness Clapp testified that he found in General's net trended original cost calculations is listed below:

1. Actual data showing surviving plant by actual year of installation is available for only 28.1% of General's plant. The vintage of the remainder of the surviving plant was estimated.

2. The depreciation which had accrued to each vintage plant, and thus reduced its value, is not available as actual data. General estimated depreciation and put it on a basis of dollars accrued in a year (called aged depreciation reserve) rather than dollars accrued to a year (called vintage reserve). Vintage reserve must be used to devalue past year original costs or a distortion will result.

3. The depreciation calculation used by General does not truly reflect the depreciation which has occurred to the existing plant. Since General has recently received substantial increases in depreciation rates, the implication is that the depreciation used in General's study is too low, and, therefore, General's Net Trended Original Cost is too high.

4. General has based its calculated theoretical depreciation reserve upon the average life of all units in the account, including plant no longer in existence as well as plant remaining. Such a calculation is incorrect for use as a measurement of the depreciation applicable to the existing plant since replacement cost, the ultimate figure to which this process is directed, is based solely upon the existing plant in service and the cost of replacing its remaining usefulness.

5. There is no evidence presented in General's testimony to show the economic value of General's plant relative to newer plant with its attendant efficiencies in operation and maintenance cost.

6. The split of combined trended figures into interstate and intrastate, using factors based upon original costs, is unreliable. Appropriate adjustment for the inaccuracies resulting from making splits of trended figures using factors based upon untrended figures must be made.

Witness Clapp admitted that, with respect to the distribution by year of original cost, the Company used the best information available to it and that it would be expensive for the Company to develop data and record such

data for all accounts. Witness Clapp accepted the distribution of original costs made by the Company for use in his studies. He indicated that the only problem associated with the estimation of the age distribution of those dollars for which accurate records are not available is one of uncertainty as to whether or not the dollars actually are in those years and actually do apply to the trending values used later on in the process. Regarding the propriety of using theoretical reserve rather than actual reserve to properly depreciate the telephone plant for valuation, Witness Clapp testified that the theoretical reserve is the depreciation reserve which would exist if the Company's equipment had, in fact, depreciated at the same rate as the depreciation rates now in effect. Because the cost of equipment is removed both from the plant account and the depreciation reserve account when the equipment is retired, the fully depreciated plant is retired prematurely, and the balance in the depreciation reserve account will be less than it should be if the artificially lowered depreciation reserve is deducted from original cost to obtain a net original cost for use in trending. The result will be an overstatement of the remaining value, and, thus, the net trended original cost will be an overstatement of remaining value in today's dollars.

Recognizing that the lack of complete data on the actual age of the original cost dollars of investment in every account precludes certainty that each dollar is trended by the correct trend factor, but also that the gathering and maintaining of such complete data would be very expensive and time consuming, the Commission concludes that the methods used by the witnesses in this case to estimate the age distribution of original cost dollars can lead to a reasonable indication of the replacement cost of the plant in service, if all other factors affecting replacement cost are correctly employed.

The purpose of determining the replacement cost is to determine today's cost of the remaining usefulness of the plant in service. Trending the original cost to today's cost and deducting appropriate depreciation is a common method of estimating today's cost. If this method is employed, both the original cost and the depreciation of the original investment must be trended with the same trend factor to properly show the trended cost of the remaining usefulness of the plant in service and the trended cost of lost usefulness. The Commission concludes that Witness Dennis' trending of his adjusted original cost depreciation dollars from the year of accrual, rather than from the year the equipment was placed in service and the original cost was incurred, is inappropriate, understates the trended cost of lost usefulness, and, therefore, results in an overstatement of net trended original cost. The Commission concludes that both the original cost and the depreciation should be trended from the year of original investment. This was the method employed by Witness Clapp.

The development of trend factors requires great diligence to preclude overstatement of cost increases. First, each time there is a change in the capability, maintenance cost, life, or other characteristic affecting the actual real value of materials of labor, the relative prices of materials or labor must be adjusted if trend factors based upon those relative prices are to truly reflect changes in costs. If the price of an item goes up 10% from one year to the next, but at the same time the usefulness of that item has increased 15%, the cost has actually dropped, not increased. The evidence before this Commission is that adjustments for productivity gains have not been made in the trend factors used in this case, and the Commission concludes that this is an omission which affects the accuracy of these trending studies and warrants consideration in the weight given to the results of these studies. However, the Commission recognizes that, as indicated by Staff Witness Clapp, General has substantially improved its methods of trend factor calculation since its preceding general rate case.

General cross-examined Staff Witness Clapp on two major points. The first was that he had presented substantially the same testimony in General's preceding general rate case, and the Commission did not make adjustments in General's replacement cost based upon the points made in his testimony. That point is history: General's last general rate case included one of the first extensive examinations of the calculation of replacement cost and fair value in recent years, and the Commission chose not to make the recommended adjustments to General's calculations for use in that particular case. However, after further study and examination, the Commission has, in every succeeding general rate case, made such adjustments where they were required.

In this case and in its last general rate case, General followed essentially the methodolgy used in the past by Southern Bell for depreciating replacement cost. General's method and Bell's method are not correct. They do not trend the plant's original cost and its depreciation with the same trend factor and they thereby overstate the replacement cost less depreciation. The Commission corrected Southern Bell's depreciation calculations when it determined Southern Bell's replacement cost in its most recent general rate case. The Commission concludes that General's depreciation calculations must be corrected in the instant case to properly reflect the depreciation which has occurred to the existing plant.

The second major point raised in General's cross-examination of Witness Clapp was directed toward his use of Iowa Curves to calculate the remaining life, probable life, and condition percent of General's plant. This method has been recognized by this Commission in recent general rate cases of Western Carolina and Westco, Norfolk and Carolina, and Carolina Telephone companies, and Nantahala, Carolina Power and Light, Duke Power, and Virginia Electric and Power

companies as an acceptable method of estimating the depreciation applicable to replacement cost of existing plant in service. Since General's method of trending adjusted depreciation by year of accrual is not a valid method of computing depreciation for replacement cost purposes, and since that is the only method presented by General, the depreciation calculations made by Staff Witness Clapp yield the only credible evidence of replacement cost in this proceeding.

Both Company Witness Dennis and Staff Witness Clapp completed their studies and presented evidence on the replacement cost of the North Carolina combined system, and neither split out the intrastate portion separately. Another Company witness did make that split but used separations ratios developed from the net original costs to split the net trended original costs. Witness Clapp demonstrated how this process can lead to an overstatement of the intrastate responsibility for trended original cost. The Commission concludes that, in the absence of more finite separations factors based upon trended costs, the application of ratios based upon original costs to trended original costs can be useful in estimating the intrastate responsibility for replacement cost and that the preclusion of certainty of accuracy should be considered in the weighting of the estimate of the replacement cost of the intrastate plant in service thus derived.

The Commission concludes that the reasonable replacement cost less depreciation of General's telephone plant in service at June 30, 1975, not including any adjustment for excess profits to General's affiliates, is $102,000,000 and that the replacement cost less depreciation of the intrastate plant in service to North Carolina ratepayers is $79,134,550.

Staff Witnesses Goins and Bright testified to adjustments which should be made for excess profits paid to Automatic Electric by General Telephone of the Southeast. The Commission heard considerable cross-examination of these witnesses by the Company concerning the reasoning behind the proposed adjustments and the method of calculating the adjustments. The Commission has, in past cases, concluded that such excess profits existed and does so again in this case. The Commission concludes that the intrastate portion of replacement cost estimates should be reduced by $1,560,850 to reflect the trended cost of these overcharges to plant accounts.

The Commission has therefore concluded that a reasonable estimate of the replacement cost less depreciation of General's plant in intrastate service at June 30, 1975, considering the above factors, necessary adjustments, and deductions is $77,573,700.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 AND 10

Having determined the appropriate original cost of net investment in plant in intrastate service to be $63,783,701 and the reasonable estimate of replacement cost of that plant to be $77,573,700, the Commission must determine the fair value of General's net plant in service.

Company Witness James W. Hevener, Revenues and Earnings Director for General Telephone Company of the Southeast, testified that he recommended a weighting of 2/3 to original cost and 1/3 to replacement cost. Staff Witness Clapp agreed with that recommendation.

In preparation for his recommendation Witness Hevener made a physical inspection of the plant and reviewed the history of outages. Witness Hevener reviewed past and current construction plans and found the existing plant in use to be mostly of modern design although some equipment now in use would be replaced soon by equipment with different capabilities.

Considering the testimony of Witness Hevener and that of Witnesses Dennis and Clapp concerning the manner in which the replacement cost was estimated and considering the previous findings and conclusions with reference to the bias and inaccuracy inherent in the estimates of replacement cost, the Commission concludes that undue emphasis cannot reasonably be placed on the replacement cost estimates offered in this case.

The Commission is not bound by weightings given in past general rate cases to this or any other company's replacement cost. It has an obligation to make a determination of appropriate weight to be assigned the original cost net investment and net replacement cost on a case by case basis. The price indexes used to calculate the net trended original cost do not accurately reflect changes in costs over time. They do not reflect the cost of replacing all of General's plant with new plant taking into consideration both the efficiencies which would be gained through mass impulse construction and the changes in plant capability which have occurred. Neither do these indexes reflect increases or decreases in operation and maintenance costs which affect the current value of the equipment.

The Commission concludes that it is reasonable to utilize a weighting of 2/3 to original cost less depreciation and 1/3 to replacement cost less depreciation for the purpose of calculating a reasonable fair value for consideration in this case.

Applying 2/3 weighting to the original cost of $63,783,701 and 1/3 weighting to the replacement cost of $77,573,700 yields the reasonable fair value of General's intrastate plant in service of $68,390,367. The Commission concludes that, by adding the reasonable working capital of $430,880

to the fair value of General's intrastate plant in service thus derived, the reasonable fair value of General's property in service to North Carolina ratepayers is $68,811,247. This includes a fair value increment of $4,596,666.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Staff Witness Bright proposed an adjustment to increase operating revenues by $17,595 in order to limit the General Telephone Directory Company to a return on equity equal to the approximate return allowed the North Carolina Division. Witness Bright stated that in her opinion the directory sales are a utility function of the large independent telephone companies since they have the capability to perform this function themselves. Witness Bright's testimony and exhibits show that the General Telephone Directory Company earned a 25.3% rate of return on its equity in 1974 on its directory contracts with the North Carolina Division of GTSE. Witness Bright recommended that the Directory Company be allowed to earn a 12% rate of return, the approximate equity return for GTSE recommended by Staff Witness Rosenberg, based upon the Commission's Order in Docket No. P-19, Sub 158, which states:

> "It is a matter of Commission policy that the return earned by affiliated suppliers, unless we have ruled otherwise because of different conditions, be limited to a return of approximately the return earned by the regulated utility. For example, Mill Power Supply Company in its sales to Duke Power Company is currently limited to a return based on current money cost. Likewise, General Telephone Company of the Southeast or its parent has the ability to directly perform the directory sales function and should be limited to a return of approximately the same level as the operating company."

Company Witness Weber testified that the Directory Company performs three functions: sales, compilation, and printing. Under what are known as sales contracts, the operating companies generally do their own compilation and contract for the printing elsewhere than with the Directory Company. Under publishing contracts, the Directory Company performs all three functions. Mr. Weber testified that all of the GTE operating companies contract with the Directory Company for their telephone directories and all of them enter into publishing contracts. Some of the independent operating companies that contract with the Directory Company have sales contracts while most have publishing contracts. Further, Mr. Weber testified that the Directory Company has earned on the average a higher return on sales on General's North Carolina operations than it has on the operations of nonaffiliated clients.

Staff Cross-Examination Weber Exhibit 1 shows that cost as a percent of sales is higher for nonaffiliates than for affiliates while Staff Cross-Examination Weber Exhibit 2

shows that the retention percentage for affiliates is lower than for nonaffiliates. Mr. Weber explained the discrepancy in cost and retention percentages by stating that costs for nonaffiliates are often higher than anticipated due to higher start-up costs and shorter contract periods. Mr. Weber also stated, however, that the retention percentages shown on the exhibit represent averages and there are nonaffiliated clients on whom the Directory Company earns a higher return than it does on General.

The Commission concludes that it is General's responsibility to substantiate its operating costs and that the Company has not offered sufficient evidence to justify the Directory Company's earning twice as much on affiliated directory sales as on nonaffiliated sales. General Telephone Company of the Southeast or its parent GTE has the ability to directly perform the directory sales function itself. The Commission must, therefore, conclude that the affiliated companies, including GISE, are being overcharged.

It remains the Commission's policy that the return earned by affiliated suppliers be limited to a return approximately equal to the return earned by the regulated utility. Consistent with the 13.2% return on equity allowed in Finding of Fact No. 18, the Directory Company should be limited to a return of 13.2% on its sales to GTSE. This will increase operating revenues by $16,007.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company Witness Gawronski, Staff Witness Winters, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer's testimony specifically concerned the separations procedures employed by the Company to separate its operating revenues and expenses between jurisdictions and the appropriate end-of-period level of toll revenues. Witness Gawronski and Witness Winters testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments. The following chart shows the amounts calculated by each of these witnesses:

| Item | Company Witness Gawronski | Staff Witness Winters |
|---|---|---|
| Local service | $15,920,963 | $15,920,963 |
| Toll service | 6,539,732 | 6,725,895 |
| Miscellaneous | 513,725 | 521,071 |
| Uncollectible | (262,075) | (262,137) |
| Total | $22,712,345 | $22,905,792 |

The evidence shows that the witnesses are in agreement concerning local service revenues. The Commission therefore concludes that the end-of-period level of local service revenues is $15,920,963.

The first item on which the witnesses differ is toll service revenues. Staff Witness Gerringer testified that end-of-period toll revenues should be $6,753,521 while Company Witness Gawronski testified that the proper level of end-of-period toll revenues should be $6,535,732. Both witnesses testified that they made a direct calculation of the end-of-period amount of intrastate toll revenues using the end-of-period level of investment and operating expenses. The $213,789 difference results mainly from Witness Gawronski's using an 8.30% toll rate of return in his calculation of toll revenues and Witness Gerringer's using a 9.00% rate.

Witness Gawronski testified that the 8.30% rate of return is the average of the monthly rates for the last four months of the test year plus 2.18% to reflect the estimated effect of the increase in intrastate toll rates that became effective July 1, 1975, in Docket No. P-100, Sub 34. Witness Gerringer testified that the 9.00% rate of return was based on the annualized intrastate toll rates of return for the months of July, August, September, October, and November of 1975. Witness Gerringer testified that at the time he prepared his testimony these were the only final monthly rates of return available which reflected the increase in intrastate toll rates that became effective July 1, 1975. The rates of return for December, 1975 and January, 1976 had been finalized at the time of hearing and were introduced by the Company in Gerringer Cross-Examination Exhibit No. 1. By including the returns for these two months along with the ones for the months of July through November, 1975, the annualized return changes from 9.00% to 8.66% and causes Witness Gerringer's recommended adjustment to end-of-period intrastate toll revenues to change from an increase of $213,789 to an increase of $106,106.

The Commission accepts the 8.66% rate of return as proper since it is based on the most current available data and, therefore, concludes that toll revenues should be increased by $106,106.

Staff Witness Gerringer testified that his end-of-period toll revenue calculation did not include the toll effects of any adjustments made by Staff Witness Winters. Witness Winters reduced intrastate toll revenues by $27,626 following adjustments which he made to depreciation expense, maintenance expense, other expense, plant in service, and deferred income taxes. As previously discussed under Evidence and Conclusions for Findings of Fact Nos. 5 and 6, supra, the Commission excluded excess profits from the original cost net investment; under Evidence and Conclusions for Finding of Fact No. 13, infra, the Commission accepted Witness Winters' adjustments to depreciation expense, maintenance expense, and other expenses. When the intrastate toll rate of return is changed from 9.00% to 8.66%, the amount of Witness Winters' adjustment to toll revenues decreases from $27,626 to $25,654. If the Company

had actually experienced the net decrease in operating expenses and plant in service and the increase in deferred income taxes, which Witness Winters proformed into the test period operations, it would have received $25,654 less in intrastate toll revenues from Southern Bell, based on an 8.66% intrastate toll rate of return. The Commission therefore concludes that the intrastate toll revenues should be reduced by $25,654.

Based on the foregoing discussion of the evidence in this proceeding, the Commission concludes that the proper level of intrastate toll revenues is $6,620,184 or $6,539,732 + $106,106 - $25,654.

The next item on which the witnesses disagree is miscellaneous revenues. This difference of $7,346 results from Witness Winters' having made two adjustments to miscellaneous revenues. The first adjustment was to reduce miscellaneous revenues by $10,249 for pole attachment rentals relating to a prior period. Witness Winters testified that rental payments applicable to the calendar year 1972 were included in the test year. If this adjustment were not made, rates would be set using a level of revenue which is unrepresentative of normal operating conditions. Any revenue included in test year operations which applies to a different year should be excluded from the test period for the purpose of setting rates. The Commission therefore concludes that this adjustment is proper and that miscellaneous revenues should be reduced by $10,249.

The second adjustment made by Witness Winters was to increase miscellaneous revenues to reflect an adjustment proposed by Staff Witness Bright for excess Directory Company profits in the amount of $17,595. Witness Bright testified that the adjustment was necessary in order to increase the revenue to be retained by the North Carolina Division due to the excess earnings of the General Telephone Directory Company. Witness Bright's testimony concerning the Directory Company is discussed in Evidence and Conclusions for Finding of Fact No. 11. Since it is the Commission's policy that the return earned by affiliated suppliers should be limited to a return approximating that earned by the regulated utility, the Commission concluded that Witness Bright's adjustment was proper in principle and that operating revenues should be increased by $16,007, based on the return on equity allowed in Finding of Fact No. 18. Adjusted accordingly, the proper level of miscellaneous revenues is $519,483.

The next item on which the witnesses disagree is uncollectible revenues. This $62 difference results from Staff Witness Winters' adjustment of $7,346 to miscellaneous revenues. The adjustment accepted by the Commission to reduce miscellaneous revenues by $10,249 for pole attachment rentals relating to a prior period will have no effect on uncollectibles. Likewise, the adjustment increasing the

amount of directory revenue retained by the North Carolina Division will have no effect on General's uncollectible revenue. Therefore, the Commission finds that uncollectible revenues should not be increased since the adjustments to revenue which the Commission has found reasonable will not cause an increase in uncollectible revenues.

Based upon the foregoing evidence and conclusions, the Commission concludes that the appropriate level of operating revenues is $22,798,555.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company Witness Gawronski and Staff Witness Winters presented testimony and exhibits showing intrastate operating revenue deductions which are summarized in the following chart:

| Item | Company Witness Gawronski | Staff Witness Winters |
|---|---|---|
| Operating revenue deductions | | |
| Operating expenses | $ 7,961,565 | $ 8,061,841 |
| Depreciation and amortization | 4,498,225 | 4,420,657 |
| Taxes - other than income | 2,995,887 | 3,006,019 |
| Income taxes: | | |
| State | 299,069 | 273,448 |
| Federal | 1,987,005 | 1,912,176 |
| Interest on customer deposits | 8,774 | 10,381 |
| Total revenue deductions | $17,750,525 | $17,684,522 |

The first item on which the witnesses disagree is operating expenses. This difference of $100,276 results from a number of adjustments made by Staff Witness Winters.

The first adjustment is to exclude $7,588 for repairs to underground cable applicable to a prior period. Witness Winters testified that operating expenses were overstated because an error relating to a prior period was corrected during the test year. The Commission concludes that Witness Winters' adjustment decreasing operating expenses $7,588 is proper. If this adjustment were not made, rates would be set using a level of expenses which would be unrepresentative of normal operating conditions. Any expense included in test-year operations which applies to a different period should be excluded from the test period for rate-making purposes.

The second adjustment made by Witness Winters is to increase operating expenses to bring pension expense to a going level. Witness Winters testified that the pension contribution rate increased from 6.42% to 8.83% in January 1976 and, if the increase had been in effect during the test year, GTSE's pension expense for North Carolina intrastate operations would have been $120,607 greater than the amount included by the Company in test-year expenses. The

Commission concludes that the $120,607 adjustment to pension expense is proper because GTSE is currently experiencing the higher pension cost and the telephone rates approved in this Order should be set to cover a cost of service recognizing these increased costs.

The third adjustment made by Witness Winters is to increase operating expenses by $38,285 in order to annualize rental expense on a lease agreement between the Company and Duke University. Witness Winters testified that the test period included only six months of this expense before his adjustment. The Commission concludes that operating expenses should be increased by $38,285 in order to reflect the full annual cost of this lease for the test year.

The fourth adjustment made by Witness Winters is to decrease operating expenses by $20,752 in order to adjust the annual charges to other divisions. Witness Winters testified that GTSE has included certain items in its North Carolina original cost net investment which are used in rendering service to other states. These other states are then charged on a monthly basis for the depreciation, cost of money, income taxes, and maintenance expense associated with these assets. A sinking fund method is used to determine a rate which is multiplied by the undepreciated balance in the plant accounts to arrive at the monthly charge for these items. Since the carrying charge rate is dependent in part on depreciation rates and maintenance expense, it is necessary to update the carrying charge rate to reflect any changes in these items.

Witness Winters further testified that, since the charges are calculated on the undepreciated balances in the plant accounts and these balances have increased overall, the annual charge recorded on the books is based on average plant. By applying the newly calculated rates to the end-of-period plant balances and deducting the amount recorded on the books, the annual rental charges are adjusted to reflect rates determined by the most recent data and to bring the charges to the appropriate end-of-period level. Company Witness Gawronski testified on cross-examination that the Company had no objection to this adjustment. The Commission therefore concludes that operating expense should be reduced by $20,752 as proposed by Witness Winters. Since for rate-making purposes, plant, depreciation expense, and maintenance expenses have been included at an end-of-period level, it is proper that the carrying charges should also be brought to an end-of-period level.

The final adjustment made by Staff Witness Winters to reduce operating expenses was to eliminate $30,276 in pole attachment rentals relating to a prior period: Witness Winters testified that rental expense relating to 1972 had been included in the test year. The Commission concludes that the operating expenses should be reduced by $30,276 to eliminate pole attachment rentals relating to a prior period. If this adjustment were not made, rates would be

set using a level of expenses unrepresentative of normal operating conditions. Any expense included in test-year operations which applies to a different year should be excluded from the test period for rate-making purposes.

There is one further adjustment in operating expenses which the Commission deems proper. Company Witness Prindle testified that the directory assistance charge proposed by the Company would result in operator expense savings of $155,676 and operator office agreement savings of $12,149, for a total savings of $167,825. Staff Witness Chase testified that he believed the level of savings projected by GTSE to be reasonable. The Commission therefore concludes that operating expenses should be reduced by $167,825. The Commission has approved the directory assistance charge which is discussed under Evidence and Conclusions for Finding of Fact No. 19. If the directory assistance charge had been in effect for the test year, operating expenses would have been reduced by $167,825.

Based upon the foregoing, the Commission concludes that the reasonable level of operating expenses is $7,894,016.

The second item of operating revenue deductions on which the witnesses disagree is depreciation and amortization. Witness Winters reduced depreciation expense by $77,568 to eliminate depreciation recorded on excess profits related to equipment purchased from Automatic Electric during the period 1957 through 1973.

Based on the Commission's decision in Evidence and Conclusions for Finding of Fact No. 5 that there exists in the plant accounts $959,000 of excess profits, the Commission concludes that depreciation expense on excess profits in the amount of $77,568 should be eliminated from operating revenue deductions and that the proper depreciation expense is $4,420,657.

The third item of operating revenue deductions on which the witnesses disagree is taxes other than income. This difference of $10,132 results from the gross receipts tax applicable to the different amounts of operating revenues proposed by the witnesses. The Commission did not accept the revenues proposed by either witness. The increase in toll revenues accepted by the Commission was $106,106 - 25,654 or $80,452, and the increase in miscellaneous revenues was $16,007 - 10,249 or $5,758 for a total increase in revenues of $86,210. After subtracting the increase in toll revenues due to the increases in operating expenses of $24,574, the revenue increase subject to gross receipts tax is $61,636. Therefore, the Commission concludes, based on the above discussion, that the gross receipts taxes recommended by Company Witness Gawronski should be increased by $61,636 X .06 or $3,698 and that the proper level of taxes other than income to be included in the test year is $2,999,585.

Staff Witness Winters and Company Witness Gawronski each calculated an amount which should be included for end-of-period intrastate State and Federal income taxes. The amount computed by Company Witness Gawronski is $2,286,074; the amount computed by Staff Witness Winters, $2,185,624. The reason for this is that State and Federal income taxes are a function of income before income taxes multiplied by the State and Federal statutory tax rates. Taxable income is determined by deducting from operating revenues the following items: operating revenue deductions, interest cost, and "Schedule M" items for which normalization accounting is not followed. As previously discussed, each witness included a different amount for operating revenues and operating revenue deductions. Therefore, the amounts used by each for taxable income, and, hence, the amounts included for State and Federal income tax expense, were different. The Commission does not deem it necessary to recapitulate these differences. Since the adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of end-of-period State and Federal income tax expense. However, there are differences between the two witnesses' computations of Federal and State income taxes which should be discussed. These three items are Witness Gawronski's method of allocating State taxable income to North Carolina, Witness Winters' deduction of $388,588 interest on parent company debt included in common equity of Southeast Company, and the deduction of "Schedule M" items in determining taxable income.

Company Witness Gawronski allocated total company income before income taxes to North Carolina on the basis of the percentage of North Carolina revenues to total company revenues. He then applied the statutory rate of 6% to this allocated taxable income to arrive at State income tax expense. Witness Gawronski testified on cross-examination that, in the calculation of his allocation factor, he used actual total company revenues and end-of-period North Carolina revenues and that, since the total company revenues were not brought to end-of-period, the amount of income before income taxes allocated to North Carolina was greater than the amount which would have been allocated to North Carolina had total company revenues been brought to an end-of-period level.

Staff Witness Winters began his State income tax calculation with operating income before income taxes determined after each category of revenues and expenses had been allocated to the North Carolina intrastate jurisdiction. He then deducted the interest expense he considered applicable to the utility operations and all appropriate "Schedule M" items. "Schedule M" items are necessary to reconcile the difference between taxable income and book income, since not all revenue and expense items are recognized at the same time for book purposes and tax

purposes. The principal "Schedule M" items are depreciation which is deductible in determining operating revenue deductions for book purposes but not deductible in computing income taxes, and current year payroll taxes and fringe benefits which are capitalized for book purposes but are deductible in computing income taxes. Witness Gawronski testified on cross-examination that the "Schedule M" deductions would about equal the "Schedule M" additions, and that was why he did not include them.

In calculating State and Federal income taxes, Staff Witness Winters also deducted $388,588 in interest expense which he testified was interest on GTE debt which was invested in the North Carolina Division of GTSE. Witness Winters testified that General Telephone Company of the Southeast is a wholly-owned subsidiary of General Telephone and Electronics Corporation. The parent company acquires capital through issuance of debt and preferred and common stock and invests these funds in the common stock of its subsidiaries, including the Southeast Company. This means that the Southeast Company's common equity is financed by debt and preferred and common stock of the parent company, and a portion of the Southeast Company's reported common equity represents nothing more than debt capital of the parent. Witness Winters further testified that this interest expense associated with the debt capital which the parent company has issued and invested in its subsidiaries is available to and is used by the parent as a deduction for income tax purposes. Since North Carolina customers are required to pay a fair rate of return on GTSE's North Carolina intrastate investment, these customers are entitled to the benefit of the tax deduction that is associated with the interest paid by the parent company on debt which has in fact been invested in the Southeast Company's common equity and which in turn has financed a portion of the North Carolina intrastate original cost net investment.

The Commission, having considered the evidence, concludes that the method of determining State taxable income used by Witness Winters is superior for rate-making purposes than the method used by Witness Gawronski. Witness Gawronski's method of allocating income before income taxes on the basis of North Carolina revenues to total company revenues disregards the separations factors for revenues and expenses which are developed from usage studies and upon which the Company, Staff, and Commission rely. It is inconsistent to determine revenues and expenses for rate-making purposes in one manner and to use different amounts for determining State income taxes which will also be included in the cost of service. The Commission also notes that, by not bringing total company revenues to an end-of-period level as was done for North Carolina revenues, Witness Gawronski's allocation percentage must necessarily be in error.

The Commission is of the opinion that Witness Winters' recognition of "Schedule M" items is appropriate. Although, as shown on Winters Exhibit I, Schedule 3-I2, there is only

$36,013 difference between "Schedule M" additions and "Schedule M" reductions, the Commission concludes that this difference should be considered in arriving at a proper level of income tax expense.

The Commission does not agree with Witness Winters' deduction for interest expense of GTE debt invested in GTSE common equity. The evidence shows that GTE issued common stock to purchase two North Carolina companies which are now part of GTSE. There is no interest expense associated with common stock. The treatment that Mr. Winters suggests for this item contains some of the same fallacies as the "Double Leverage" theory for rate of return presented by Witnesses Baughcum and Rosenberg, which we discuss in the Evidence and Conclusions for Finding of Fact No. 17. To embrace this treatment would involve assuming that the tax deduction of the parent company associated with payment of interest on its debt should be attributed to the subsidiary. The Commission feels this reaches beyond the intent of the law and, therefore, Witness Winters' deduction of $388,588 from revenue deductions, for the tax benefit of the parent company's interest in determining the revenue requirements of its subsidiary, is improper.

Based upon the foregoing, the Commission concludes that the proper end-of-period amount of State income taxes is $300,816 and the proper end-of-period amount of Federal income taxes is $2,117,995. The following schedule sets forth the State and Federal income tax calculations:

| Line No. | Item | | Amount |
|---|---|---|---|
| 1. | Total operating revenues (net) | | $22,798,555 |
| 2. | Operating revenue deductions: | | |
| 3. | Operating expenses and depreciation | | 12,314,673 |
| 4. | Interest - customer deposits | | 10,381 |
| 5. | Other operating taxes | | 2,999,585 |
| 6. | Interest expense | | 2,424,299 |
| 7. | Total deductions | | 17,748,938 |
| 8. | Operating income before income taxes | | 5,049,617 |
| 9. | Add: depreciation on items capitalized | | 252,654 |
| 10. | Deduct: payroll taxes capitalized | $ 95,251 | |
| 11. | pensions capitalized | 132,747 | |
| 12. | sales taxes capitalized | 60,669 | |
| 13. | | | 288,667 |
| 14. | State taxable income (L8 + L9 - L13) | | 5,013,604 |
| 15. | State income tax rate | | 6% |
| 16. | State income taxes (L14 X L15) | | 300,816 |
| 17. | Federal taxable income (L14 - L16) | | 4,712,788 |
| 18. | Federal income tax rate | | 48% |
| 19. | Federal income taxes (L17 X L18) | | 2,262,138 |
| 20. | Amortization of investment tax credit | | 144,143 |
| 21. | Federal income taxes (L19 - L20) | | $ 2,117,995 |

The final item on which the witnesses disagree is interest on customer deposits in the amount of $1,607. Witness Winters used end-of-period customer deposits in calculating his allowance for working capital; Witness Gawronski used average customer deposits. Witness Winters made a pro forma adjustment to bring the interest expense applicable to customer deposits to an end-of-period level so that the Company will be allowed to earn the cost associated with these funds but no more than that cost.

The Commission is of the opinion that, since the Commission has adopted Witness Winters' end-of-period level of customer deposits in determining the allowance for working capital, his adjustment to increase interest on customer deposits to an end-of-period level is also appropriate. The Commission therefore concludes that the proper level of interest on customer deposits is $10,381.

Based on the evidence presented in this case and discussed above, the Commission concludes that the reasonable level of operating revenue deductions is $17,743,450.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 - 16

The evidence for these Findings of Fact is contained in the testimony and exhibits of Company Witnesses Orstad and Gawronski and Staff Witnesses Winters and Rosenberg. The capital structure and embedded cost rates for debt and preferred stock differed very little. The differences between the witnesses arose from the adjustments made to the Company's capital structure by Staff Witness Winters to

include cost-free capital items shown on page 4 of Winters' prefiled testimony. These cost-free items, not included by the Company in its original cost capital structure, are as follows:

| | Item | Amount |
|---|---|---|
| (1) | Accumulated deferred income taxes per books | $27,766,771 |
| (2) | Pre-1971 investment tax credit | 4,063,903 |
| (3) | Staff adjustment to reclassify deferred income taxes recorded as accrued income taxes | 2,274,276 |
| (4) | Staff adjustment to reclassify overaccrual of Federal income taxes as cost-free capital | 1,381,902 |
| | Total cost-free capital | $35,488,852 |

The North Carolina intrastate portion of this cost-free capital was included as part of the GTSE capital structure on Winters Exhibit I, Schedule I. Based on the testimony presented, the Commission concludes that the cost-free capital adjustments made by Witness Winters to the Company's capital structure are appropriate and should be allowed.

The capital structure which results from making such adjustments is as follows:

| Item | Percent |
|---|---|
| Total Debt | 49.03 |
| Preferred Stock | .74 |
| Common Equity | 42.94 |
| Cost-free Capital | 7.29 |
| Total | 100.00% |

When the excess of the fair value of property, or rate base, over the original cost net investment ($4,596,666) is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

| Item | Percent |
|---|---|
| Total Debt | 45.76 |
| Preferred Stock | .69 |
| Fair Value Common Equity | 46.75 |
| Cost-free Capital | 6.80 |
| | 100.00% |

As reflected on the foregoing charts, the Company's original cost equity ratio is 42.94% and its fair value equity ratio is 46.75%. These Findings of Fact are the basis of further Commission conclusions with respect to fair rate of return.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 AND 18

Four witnesses testified concerning the cost of capital and the fair rate of return. Mr. Lyle Orstad, Treasurer of General Telephone Company of the Southeast, testified on behalf of the Company; Dr. Richard H. Pettway testified for the City of Durham; Mr. Alan Baughcum testified for the Attorney General; and Mr. Edwin Rosenberg testified for the Staff. Additionally, Dr. Paul Garfield offered rebuttal testimony on behalf of the Company in the matter of the application of "Double Leverage" by Witnesses Baughcum and Rosenberg.

Mr. Orstad testified that the fair and reasonable return on the Company's rate base would be 9.1%. This was based on his finding that the overall cost of capital to General Telephone Company of the Southeast was 10.4%, based on the original cost capital structure and embedded cost rates for senior obligations as they existed at June 30, 1975, and his conclusion that the necessary return on common equity for the Company was in the range of 14.5% to 15.5%. Mr. Orstad based his 14.5% to 15.5% range for the necessary return on common equity on three tests:

(1) The Company should maintain a 2.5 times after-tax coverage ratio on its debt interest payments in order not to endanger its "A" rating on its long-term debt issues;

(2) The spread between the returns available to equity holders and debt holders should be 5.76%; and

(3) The return to equity holders should be commensurate with a return on investment derived from the application of the Discounted Cash Flow (DCF) technique to a group of eight electric, gas and telephone utilities which Mr. Orstad considered comparable to GTSE.

Very simply stated, the DCF or Discounted Cash Flow technique estimates the cost of equity to a firm by obtaining estimates of the dividend yield and capital appreciation (or growth) rate which an investor might reasonably expect, adding the yield and growth rate together and adjusting the result for the expected costs of floatation of new equity.

Dr. Pettway testified that a return of 8.34% on rate base would be fair. This was based on his finding that the overall cost of capital based on the original cost capital structure was 9.5% as of June 30, 1975. This finding was based in turn on his best estimate of the required return to common equity at June 30, 1975, which was 13.2%. Dr. Pettway applied the DCF approach to a group of seven operating telephone companies and telephone holding companies and analyzed the equity capital requirements of GTSE as if it were an independent firm.

Mr. Baughcum stated that a return of 8.65% on the original cost net investment would be fair, based upon his finding that the cost of equity capital to the Company was 11.66% using the Double Leverage Theory and the DCF technique. The Double Leverage approach, as applied by Mr. Baughcum, treats the common equity of the operating company (in this instance General Telephone Company of the Southeast) as if it were composed of the debt, preferred stock and common equity of its parent company (in this instance General Telephone and Electronics Corporation). The cost of common equity of the subsidiary company is then assumed to be the composite cost of capital of the parent, i.e., the sum of the weighted cost rates for each component of the parent's capital structure.

Mr. Rosenberg adopted a methodology very similar to that employed by Mr. Baughcum. He, too, applied Double Leverage and the DCF technique and arrived at an estimated overall cost of capital of 8.93% and an estimated cost of common equity of 11.92%. Both of these figures are based on original cost net investment and, as noted above, on the treatment of the common equity of GTSE as if it were supported by proportionate shares of the debt, preferred stock and equity of the parent corporation.

Dr. Garfield presented testimony in rebuttal to the use of Double Leverage by Witnesses Baughcum and Rosenberg. He challenged the propriety of their use of Double Leverage in determining the cost of equity capital to GTSE. Their use of the concept was invalid, according to Dr. Garfield, because the premise on which it rested was invalid.

While the relationship between the company and its parent firm (and the attendant benefits) should be considered in determining the fair rate of return, the attempt to absolutely quantify the effect of affiliation through application of the Double Leverage Theory is inappropriate. In order to adopt the concept of Double Leverage, it is necessary to assume, for the strictly limited purpose of determining cost of equity capital, that the equity of a subsidiary is provided by its parent from the parent's permanent capital in the same proportion that the parent has historically developed its own capital structure. Such a hypothesis is, as demonstrated by Dr. Garfield, contrary to the known facts. The evidence in this case shows that the acquisition of the North Carolina operating division of GTSE was accomplished by the issuance of equity of GTE. And subsequent additions to the equity of GTSE in the form of retained earnings have no basis for being attributed in any way to the capital structure of the parent. If the concept of assigning the parent company's overall cost of permanent capital as the cost of equity to the subsidiary were followed, then a cost of capital rate would have to be assigned to part of the operating company's equity based on the cost of capital of a parent whose attendant risks may be different from the regulated operating company. And that part of the operating subsidiary's equity arising from its

own retained earnings, with its attendant risk, would have the possibility of having a different cost rate.

In fixing a rate of return, G.S. 62-133(b)(4) requires the Commission to allow an operating utility the opportunity to produce a fair profit for its stockholders. A basic premise to application of the Double Leverage Theory is to determine who the stockholder is, because it only applies to the parent-subsidiary structure, and only when the stockholder-parent's ownership reaches a certain unspecified percentage. Then an assumption must be made as to the source and costs of the stockholder-parent's funds in arriving at a determination of what profit is "fair" for that particular stockholder. In our opinion, such is not the intention of the statute. Whether a profit is "fair" is not related to the number of investors, the legal nature of investors, or the source and costs of the investors' funds. If such were the case, this Commission would be obligated to ascertain the source and costs of investment capital for every investor in every utility in this State and award such utility a composite return appropriate to the individual circumstances of each shareholder. Such a procedure would appear unreasonable, at best.

For these reasons, the Commission concludes that the application of Double Leverage proposed by Witnesses Baughcum and Rosenberg is inappropriate. It should be noted that we consider the capital structure of GTSE in this case to be reasonable. Were that not the case, we would not hesitate to consider piercing the corporate veil in this area as we have in other areas of intercorporate affiliation relating to this Company.

In making its decision as to the fair rate of return, the Commission must weigh the evidence and evaluate specific recommendations in terms of reasonableness as well as likely effect on both the ratepayers and the Company. Viewed in this light, the evidence presented by Mr. Orstad is, in the opinion of the Commission, faulty at best. Mr. Orstad failed to adequately demonstrate that a 2.5 times <u>after-tax</u> coverage ratio on all debt would be required to maintain the Company's "A" rating on first mortgage bonds. His "comparable" companies included only one telephone company in a group of electric and gas utilities whose investment risk would be expected to be much higher than that of General Telephone Company of the Southeast. His use of the debt yield - equity earnings spread appears biased in that he declared a wide spread (based on the years 1960-64) to be normal, and he rejected lower, more current spreads as insufficient. The Commission concludes that to adopt Mr. Orstad's recommendations on such evidence would be unwise and inappropriate, given the Commission's responsibilities to the ratepayer. There is in the record no convincing evidence from which to conclude that the Company requires the return advocated by Mr. Orstad in order to successfully discharge its obligations to the ratepayer and its investors.

Of all the witnesses on the subject of rate of return, we find the testimony of Dr. Pettway, witness for the intervenor City of Durham, to be the most compelling. Dr. Pettway sought to measure the return an investor might require from an investment in the stock of an operating telephone company comparable to General Telephone Company of the Southeast. Such a measure is difficult, due to the dearth of operating telephone companies for which stock market data is available. Yet, the companies selected, being telephone utilities or holding companies, face many of the same risks as GTSE. Dr. Pettway's analysis in this case took into account the inherent variability of the DCF technique, and his analysis of the Company as an independent firm poses none of the problems associated with Double Leverage.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in State of North Carolina ex rel. Utilities Commission, et al. v. Duke Power Company 285 NC 377 (1974) wherein the following statements concerning the level of the fair rate of return appear at page 396:

> "[T]he capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G. S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission, therefore, concludes that it is fair and reasonable to consider, in its findings on rate of return,

the reduction in risk to General's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of General's capital structure. Considering the current investment markets in which General must compete for debt and equity capital, the relationship between the Company and its parent, GTE, and the other testimony relating to rate of return, the Commission concludes that a rate of return of 8.85% on the fair value of GTSE's property used and useful in rendering telephone utility service to its customers in North Carolina is just and reasonable. Such a return on fair value will produce a return of 11.33% on fair value equity, including both book equity and the fair value increment, which is just and reasonable. The actual dollar return yielded by the rate of return of 8.85% multiplied by the fair value equity will yield a rate of return of 13.2% on book common equity.

The Commission has considered the tests laid down by G. S. 62-133(b)(4). The Commission concludes that the rates herein allowed should enable the Company to attract sufficient debt capital from the market and equity capital from its parent to discharge its obligations and to achieve and maintain a high level of service to the public. The Commission cannot guarantee that the Company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the Company will be able to reach that level of returns through efficient management.

The following charts summarize the gross revenues and the rates of return which the Company should be able to achieve based upon the increases approved herein. Such charts incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

SCHEDULE I
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
DOCKET NO. P-19, SUB 163
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $15,920,963 | $2,270,987 | $18,191,950 |
| Toll service | 6,620,184 | | 6,620,184 |
| Miscellaneous | 519,483 | | 519,483 |
| Uncollectibles | (262,075) | (19,076) | (281,151) |
| Total operating revenues | 22,798,555 | 2,251,911 | 25,050,466 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 3,781,389 | | 3,781,389 |
| Traffic expenses | 1,191,793 | | 1,191,793 |
| Commercial expenses | 994,337 | | 994,337 |
| General office salaries and expenses | 1,344,760 | | 1,344,760 |
| Other operating expenses | 581,737 | | 581,737 |
| Total operating expenses | 7,894,016 | | 7,894,016 |
| Depreciation and amortization | 4,420,657 | | 4,420,657 |
| Taxes other than income | 2,999,585 | 135,115 | 3,134,700 |
| Income taxes - state and federal | 2,418,811 | 1,082,106 | 3,500,917 |
| Interest on customer deposits | 10,381 | | 10,381 |
| Total operating revenue deductions | 17,743,450 | 1,217,221 | 18,960,671 |
| Net operating income for return | $ 5,055,105 | $1,034,690 | $ 6,089,795 |

| | | | |
|---|---|---|---|
| Investment in Telephone Plant | | | |
| Telephone plant in service | $79,361,523 | | $79,361,523 |
| Less: Accumulated Depreciation | 14,618,822 | | 14,618,822 |
| Excess profits earned by Automatic Electric | 959,000 | | 959,000 |
| Net investment in telephone plant in service | 63,783,701 | | 63,783,701 |
| Allowance for Working Capital | | | |
| Materials and supplies | 943,381 | | 943,381 |
| Cash | 658,700 | | 658,700 |
| Average prepayments | 27,976 | | 27,976 |
| Compensating bank balances | 169,838 | | 169,838 |
| Less: Average operating tax accruals | 1,203,047 | | 1,203,047 |
| Customer deposits | 165,968 | | 165,968 |
| Total allowance for working capital | 430,880 | | 430,880 |
| Net investment in telephone plant in service plus allowance for working capital | $64,214,581 | | $64,214,581 |
| Fair value rate base | $68,811,247 | | $68,811,247 |
| Rate of return on fair value rate base | 7.35% | | 8.85% |

SCHEDULE II
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
DOCKET NO. P-19, SUB 163
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED JUNE 30, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Capitalization | | | | |
| Total debt | $31,484,409 | 45.76 | 7.70 | $2,424,299 |
| Preferred stock | 475,188 | .69 | 4.64 | 22,049 |
| Common equity | | | | |
| Book $27,573,741 | | | | |
| Fair Value Increment 4,596,666 | 32,170,407 | 46.75 | 8.11 | 2,608,757 |
| Cost-free capital | 4,681,243 | 6.80 | - | - |
| Total | $68,811,247 | 100.00 | - | $5,055,105 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $31,484,409 | 45.76 | 7.70 | $2,424,299 |
| Preferred stock | 475,188 | .69 | 4.64 | 22,049 |
| Common equity | | | | |
| Book $27,573,741 | | | | |
| Fair Value Increment 4,596,666 | 32,170,407 | 46.75 | 11.33 | 3,643,447 |
| Cost-free capital | 4,681,243 | 6.80 | - | - |
| Total | $68,811,247 | 100.00 | - | $6,089,795 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Mr. J. W. Hevener, Revenues and Earnings Director of GTSE, testified regarding the Company's rate proposals to produce $3,970,532 in additional annual revenue based on the number of units in service at June 30, 1975. Mr. Hevener's rate design included increases in basic main and equivalent station rates, based on the number of stations in each local calling scope. He also included revisions in the centrex service offering to convert the centrex offering, where the dial switching equipment is located on the customer's

premises, to a private branch exchange type offering and to increase the charges for the various centrex services as well as for private branch exchange service. He proposed that a charge be established for directory assistance service, which was later described in more detail by Company Witness Prindle. Mr. Hevener proposed the elimination of joint user service and stated that he had considered the elimination of commissions on intrastate coin telephone service revenues and had no objections to such elimination. He proposed increases in key systems, data sets, service (installation and changes) charges and other services. Mr. Hevener suggested that in view of the FCC Order in Docket No. 19528, relating to customer-provided equipment connections to the telephone network, such connections should be made by an approved plug and jack arrangement.

Mr. Quentin T. Prindle, Traffic Manager - Studies for GTSE, testified regarding the Company's proposal to establish a charge for directory assistance (D.A.), which is very similar to the plan approved for Southern Bell's North Carolina operations and for other North Carolina telephone companies. Mr. Prindle's suggestions included a charge of 20¢ for each inquiry in excess of five inquiries per month, with exemptions being allowed for public and semipublic telephones and handicapped customers. He described Company studies which show that 86% of the customers make five or less calls to directory assistance monthly, which indicates that the five-call allowance will meet the needs of a majority of subscribers. He also testified that, according to his estimates, such a plan would produce $37,450 of additional annual revenue, reduce operator expense by $155,676 and result in Operator Office Agreement savings of $12,149 for a total of $205,275 annually. This revenue requirement reduction is based on a 61.64% reduction in total directory assistance call volumes in the Durham operation. In Union County it is expected that the call volume will be 0.794 calls per main station after a charge is implemented.

Mr. Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified that he had no substantial disagreement with the Company's proposed rate design if the Commission should allow the Company additional revenue, but he did suggest that the minimum charge on private lines, extension lines and tie line circuits be increased from $6.00 to $8.00 per month. He recommended that the Commission approve the same directory assistance charge plan for General that was approved for Southern Bell, which would not grant an exemption to hotel, motel and hospital room directory assistance charges. Regarding the FCC Order in Docket No. 19528 mentioned by Witness Hevener, Mr. Chase stated that it was too early to know the consequences of such Order.

Based on the foregoing testimony and the exhibits in support thereof, the Commission reaches the following

conclusions with regard to the rate structure design to be approved for General Telephone Company of the Southeast.

(1) Basic Rate Schedule

The schedule of rates and charges set forth in the Appendices* attached to this Order is just and reasonable.

(2) Service Charges

Applicant's service charges should not be converted to a jack and plug arrangement at this time, but some changes are justified which are reflected in Appendix "E" attached hereto.

(3) Centrex, PBX, Key System and Data Service Rates and Charges

The rate design proposed by Applicant for centrex, PBX, key system and data service is just and reasonable.

(4) Other Services

The elimination of joint user service and the commissions paid on intrastate coin telephone service is reasonable and should be implemented by GTSE.

(5) Directory Assistance Charges

Based on the previous analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of relieving subscribers who do not use the service excessively from the burden of having to pay for those who do use the service excessively. It is unquestionable that a vast number of unnecessary calls are made for information that is readily available or can be made readily available on an ongoing basis. This practice is a burden on the general body of telephone ratepayers and is a hindrance to keeping charges for basic service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to pay for telephone service. An estimated reduction of 60% to 70% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the firm opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that a five (5) free call monthly allowance will adequately provide for the reasonable needs

of nearly all subscribers and that a charge of 20¢ for each local directory assistance request in excess of five (5) monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry per month for each sent paid toll call made to a number in the home numbering plan area.

The Commission is of the opinion that a 61.64% reduction in local directory assistance calling in the Durham area may reasonably be expected. This would result in decreased expenses of $155,676 and increased revenues of $32,606 in the Durham area and an Operator Office Agreement savings of $12,149 in Union County with $4,844 of additional revenue, or a total savings to the ratepayers of $205,149 in reduced revenue requirements for the Company, which the Commission has considered in determining the overall revenue requirements for GTSE.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from directory assistance charges. General is being ordered herein to collect data on the use of this exemption to enable the Commission, at the end of the experimental period for D.A. charging, to fully evaluate the needs of and uses made by handicapped individuals concerning directory assistance services. The Commission recognizes that a uniform, statewide D.A. charging plan is ultimately desirable and that the D.A. charging plan approved herein for General, and those previously approved for Central Telephone Company and Southern Bell, differ from the one previously approved for Carolina Telephone and Telegraph Company. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, General Telephone Company of the Southeast, be, and hereby is, authorized to increase its North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $2,270,987 based upon stations and operations as of June 30, 1975, as hereinafter set forth in Appendices "A" and "B."

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendices "A" and "B" attached hereto, which will produce additional gross revenues of $2,270,987 from said end of test period customers, be, and hereby are, approved to be charged and implemented by General, effective on service to be rendered on and after the date of this Order, except as noted herein.

3. That General shall file, within seven days of this Order, the necessary revised tariffs reflecting the above increases, decreases and regulations, said tariffs to be effective as of the dates prescribed above.

4. That General is authorized to begin directory assistance charges in accordance with Appendix "A" attached to this Order after September 1, 1976, and after the NOTICE attached as Appendix "C" is given to its subscribers. General shall, before August 15, 1976, mail as a bill insert or direct mailing the NOTICE attached as Appendix "C" to all subscribers and shall, commencing September 1, 1976, mail as a bill insert the REMINDER attached as Appendix "C" to all subscribers. Should the Company be unable to initiate directory assistance charges on September 1, 1976, it should so advise the Commission and make appropriate changes in the dates in the NOTICE, the REMINDER and the mailing dates prescribed above.

Further, that General shall place the directory information included in Appendix "C," relating to directory assistance charges, in its telephone directory.

5. That General shall offer an option to residential applicants or subscribers to allow them to pay for service charges (installation, moves, changes, etc.), where the total exceeds $15.00, in two equal payments over the first two billing periods after such service work is completed, unless the subscriber is a known credit risk to the Company, and General shall include this provision in its tariff filings.

6. That General shall provide, for one representative month each quarter for the two quarters ending December 31, 1976, and March 31, 1977, a report showing:

(a) The number and percent of subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D.A. inquiries per line per month.

(b) The number and percent of local directory assistance inquiries placed by subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D. A. calls per month.

(c) The number of Home Numbering Plan Area toll D.A. inquiries per month.

(d) The monthly number of local directory assistance inquiries from pay stations.

(e) For exempted services furnished for handicapped individuals, the same data requested in (a) and (b) above.

(f) The number and percent of subscribers billed for directory assistance inquiries.

(g) The revenue billed for directory assistance inquiries.

(h) A general report indicating the date(s) of implementation of directory assistance charges, complaints received, and problems encountered (i.e., traffic, accounting, billing, adjustments, etc.).

(i) The percent and amount of reduction in traffic expense over or under what was estimated for the same month had directory assistance charges not been in effect.

The above data should be based on actual experience for one representative month of the quarter and should be received by the Commission no later than the last day of the month following the end of the quarter.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
DOCKET NO. P-19, SUB 163

| | Rates by Exchange | | | |
|---|---|---|---|---|
| | RESIDENCE | | BUSINESS | |
| EXCHANGE | Ind. | 2-Pty. | Ind. | 2-Pty. |
| Altan | 9.45 | 8.65 | 23.65 | 22.65 |
| Creedmoor | 10.45 | -- | 26.25 | -- |
| Durham | | | | |
| Except Research Triangle Park Service Area | 10.45 | -- | 26.25 | -- |
| Research Triangle Park Service Area | -- | -- | 32.25 | -- |
| Goose Creek | 9.45 | 8.65 | 23.65 | 22.65 |
| Monroe | 9.45 | 8.65 | 23.65 | 22.65 |

* See official file for Appendices "A," "B," and "C."

DOCKET NO. P-19, SUB 163

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of | |
| Application of General Telephone Company of the Southeast for Authority to Increase its Rates and Charges in its Service Area within North Carolina | ) ERRATA ORDER<br>) CORRECTING<br>) APPENDICES "A"<br>) AND "B" |

BY THE COMMISSION: By Order issued in this docket on July 20, 1976, the Commission determined the just and reasonable rates to be charged for its services by General Telephone Company of the Southeast (General) in its North Carolina exchanges, based on operations during a test year ended June 30, 1975. The Commission found and concluded that General was entitled to increase its rates and charges by $2,270,987 on an annual basis.

Subsequent to the issuance of this Order, the Commission Staff notified the Commission of the possibility that some errors in calculation had been made in the approved rate structure, as contained in Appendices "A" and "B" attached to the Order of July 20, 1976. The Commission, on its own motion, set the matter for hearing in the Commission Hearing Room on Tuesday, July 27, 1976, at 2:00 p.m. All parties to the docket (General, the North Carolina Attorney General, the City of Durham and the Commission Staff) were present and represented by counsel. The Commission declared that the scope of the hearing would be to determine (1) whether or not the rates provided by the Order of July 20, 1976, were sufficient to produce the revenue allowed to General in the Order; and (2) if not, what corrections to such rates would be necessary in order to meet the revenue requirement.

The Staff offered the testimony of Vern W. Chase, Chief Engineer, Telephone Rate Section, and introduced one exhibit. Mr. Chase was tendered to the parties for cross-examination and was cross-examined by counsel for the Attorney General and for General Telephone Company. At the conclusion of the hearing, the attorney for the City of Durham moved for an extension of time within which to file exceptions and notice of appeal to the Commission's Order in this docket. Such motion was taken under advisement.

From the testimony and exhibit offered by the Staff, the Commission finds, determines and concludes as follows: (a) that errors of calculation were made in Appendices "A" and "B" attached to the Commission's Order of July 20, 1976; (b) that the result of such errors is to produce an annual revenue deficiency of $615,996 below the $2,270,987 heretofore allowed to General as increased annual revenues; (c) that to correct such deficiency it is necessary to increase revenues from main stations by $499,958 and revenues from service charges by $115,904; and (d) that to produce the required revenues from main stations it will be necessary to increase the rates to residential phones by

$.40 and to business phones by $.75 over and above the increases previously allowed and, further, to increase other charges as shown on the corrected appendix pages attached hereto. The Commission concludes that corrected pages to the appendices, as described herein, should be issued, in lieu of those previously published, so that General will, in fact, have the opportunity to earn the annual gross revenues and level of returns allowed by the Commission.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That pages 47, 55, 69 and 70, which comprise portions of Appendix "A" and Appendix "B" of the Commission's Order of July 20, 1976, be, and the same are hereby, withdrawn and cancelled.

2. That corrected pages 47, 55, 69 and 70* attached hereto, which contain the corrections described above, be inserted in lieu of former pages 47, 55, 69 and 70.

3. That Ordering Paragraph No. 3 on page 45 of the July 20, 1976, Order is hereby cancelled. General shall file, within seven days of the date of this Order, the necessary revised tariffs reflecting not only the increases approved herein, but also those increases, decreases and regulations previously adopted which are unaffected by this Order. Such tariffs shall be filed to be effective as of July 20, 1976.

4. That the time for filing notice of appeal and exceptions to the Commission's final Order herein be, and the same is hereby, extended through and including Friday, September 24, 1976.

5. That, except as corrected herein, the Commission's Order Setting Rates issued July 20, 1976, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of July, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
DOCKET NO. P-19, SUB 163

| | Rates by Exchange | | | |
|---|---|---|---|---|
| | RESIDENCE | | BUSINESS | |
| | Ind. | 2-Pty. | Ind. | 2-Pty. |
| EXCHANGE | | | | |
| Altan | 9.85 | 9.05 | 24.40 | 23.40 |
| Creedmoor | 10.85 | -- | 27.00 | -- |
| Durham | | | | |

| | | | | |
|---|---|---|---|---|
| Except Research Triangle Park Service Area | 10.85 | -- | 27.00 | -- |
| Research Triangle Park Service Area | -- | -- | 33.00 | -- |
| Goose Creek | 9.85 | 9.05 | 24.40 | 23.40 |
| Monroe | 9.85 | 9.05 | 24.40 | 23.40 |

* See official file for the remainder of corrected page 47 and all of corrected pages 55, 69, and 70.

DOCKET NO. P-26, SUB 76

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Heins Telephone Company ) ORDER GRANTING
for Authority to Increase its Rates ) PARTIAL INCREASE
and Charges in its Service Area Within ) IN RATES
North Carolina )

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on October 5, 6 and 7, 1976 at 10:00 A.M.

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

R. C. Howison, Jr., Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602

For the Attorney General:

Jerry B. Fruitt, Associate Attorney General, Department of Justice, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 19, 1976 Heins Telephone Company (hereinafter Heins, company, or Applicant) filed an application for authority to adjust and increase its rates

and charges amounting to approximately $887,767 in additional annual gross revenues. Heins proposed that the rate schedules be allowed to go into effect on or after July 1, 1976 without suspension. The Applicant's testimony and exhibits were not filed at that time but were subsequently filed on June 9, 1976.

On June 3, 1976 the Commission issued an order, among other things, suspending the requested increase in rates for a period of 270 days or until final order of the Commission and required that certain information be filed by Heins.

On June 24, 1976 the Commission set the application for hearing and required Heins to publish Notice of Hearing attached to the Order and to mail the same as bill inserts to each of its subscribers in accordance with the Order.

On September 7, 1976 the Attorney General filed Notice of Intervention and the same was recognized by the Commission's Order of September 8, 1976. There are certain other orders and letters regarding information requests by counsel for the Staff and Applicant.

The public hearing in this matter began on October 5, 1976.

The Applicant presented the testimony of the following witnesses: James E. Heins, President and General Manager of Heins, with regard to growth, services and construction program; Frank M. Nunnally, Treasurer of Heins, as to accounting and capital structure; Walter L. Drury, Comptroller of Heins, as to rate design and proposed increases; Hal L. Carnes, Jr., P.E., President, Carnes, Burkett, Wiltsee & Associates, Inc., regarding replacement costs and fair value; and Professor George E. Flanigan, Associate Professor of Business Administration of University of North Carolina at Greensboro, as to rate of return.

The Commission Staff offered the testimony of the following witnesses: H. Randolph Currin, Senior Operations Analyst, as to rate of return and cost of capital; William W. Winters, Staff Accountant, review of company books and accounting recommendations; Hugh L. Gerringer, Toll Settlement Engineer, regarding separations and toll settlements; Gene A. Clemmons, Chief, Telephone Service Section, as to depreciation; Benjamin R. Turner, Jr., Telephone Engineer, regarding reasonableness of plant margins, past and projected growth, stations and investments; James S. Compton, Telephone Engineer, regarding quality of service; Hillard N. Carpenter, III, Telephone Engineer, as to review of proposed rate design and Staff recommendations; Vern W. Chase, Chief, Telephone Rate Section, regarding directory assistance; and Allen L. Clapp, Chief, Operations Analysis Section, as to review of company proposed replacement cost and fair value.

Oral Argument was presented in lieu of briefs at the conclusion of the three-day hearing.

Upon consideration of the objections to Currin Exhibit No. 3 filed by counsel for Heins, the Commission is of the opinion that the Motion should be allowed and the exhibit excluded from the record.

Based upon the entire evidence of record, the Commission makes the following

FINDINGS OF FACT

1. That Heins is a duly franchised public utility providing telephone service to its subscribers and is a duly created and existing corporation authorized to do business in North Carolina and is lawfully before the Commission in this proceeding for a determination as to the justness and reasonableness of its rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the total increases in rates and charges under Heins' application would have produced approximately $887,767 in additional annual gross revenues.

3. That Heins' last rate application was authorized by Order issued August 19, 1952 in Docket No. P-26, Sub 2. The present rates were authorized in Docket No. P-26, Sub 66, Order issued May 24, 1971, and Docket No. P-26, Sub 71, Order issued November 15, 1973, wherein the Commission authorized Heins to proceed to provide one-party telephone service to both residential and business subscribers. Conversion to one-party service was completed prior to the closing of the hearing in this docket.

4. That the test period used in this proceeding for the purpose of establishing rates as required by the Commission is the 12-month period ended December 31, 1975.

5. That the overall quality of service provided by Heins to its customers is adequate.

6. That there is no excess plant investment reflected from the record in this case.

7. That the company's depreciation rate for the station connection account should be 12.5%, 12% for the aerial wire account, and 13.3% for the vehicles account. All other depreciation rates as used in the company's application are appropriate.

8. That the separation factors proposed by the Staff are proper for purposes of determining Heins Telephone Company's intrastate level of operations.

9. That the original cost of Heins Telephone Company's investment in telephone plant used and useful in providing intrastate telephone service in North Carolina is $13,564,033. From this amount should be deducted the reasonable accumulated provision for depreciation at December 31, 1975 of $3,045,337 resulting in a reasonable original cost less depreciation of $10,515,696.

10. That Heins Telephone Company's investment in Rural Telephone Bank Class B stock less patronage dividends should be included in the original cost net investment in the amount of $299,304.

11. That the reasonable allowance for working capital is $138,617.

12. That the reasonable replacement cost less depreciation of Heins' plant used and useful in providing intrastate telephone service in North Carolina is $13,300,000.

13. That the fair value of Heins' plant used and useful in providing intrastate telephone service in North Carolina should be derived from giving 3/4 weighting to the reasonable original cost less depreciation of Heins' plant in service and 1/4 weighting to the depreciated replacement cost of Heins' utility plant. By this method, using the depreciated original cost of $10,515,696 and the depreciated replacement cost of $13,300,000, the Commission finds that the fair value of Heins' utility plant devoted to intrastate telephone service in North Carolina is $11,211,772. This fair value includes a reasonable fair value increment of $696,076.

14. That the fair value of Heins' plant in service to its customers within the State of North Carolina at the end of the test year of $11,211,772 plus the reasonable allowance for working capital of $138,617 plus Rural Telephone Bank stock of $299,304 yields a reasonable fair value of Heins' property in service to North Carolina customers of $11,649,693.

15. That Heins Telephone Company's operating revenues net of uncollectibles for the test year after accounting and pro forma adjustments under present rates are approximately $3,066,225 and under the company proposed rates would have been approximately $3,953,992 before annualization to year-end levels.

16. That Heins Telephone Company's operating revenue deductions after accounting and pro forma adjustments are approximately $2,582,695 which includes an amount of $667,223 for actual investment currently consumed through reasonable actual depreciation before annualization to year-end levels.

17. That cost-free funds arising from the Job Development Investment Tax Credit, implemented by the Revenue Act of 1971, should receive the full equity return.

18. That the capital structure which is proper for use in this proceeding is the following:

| Item (a) | Percent (b) |
|---|---|
| Long-term debt | 76.94% |
| Common equity | 19.80% |
| Cost-free capital | 3.26% |
| Total | 100.00% |

19. That when the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net investment, the fair value capital structure is as follows:

| Item (a) | Percent (b) |
|---|---|
| Long-term debt | 72.34% |
| Common equity | 24.59% |
| Cost-free capital | 3.07% |
| Total | 100.00% |

20. That the company's proper embedded cost of total debt is 4.43%. The fair rate of return which should be applied to the fair value rate base is 6.03%. This return on Heins' fair value property of 6.03% will allow a return on fair value equity of 11.48% after recovery of the embedded cost of debt.

21. That Heins should be allowed an increase in additional annual gross revenues not exceeding $455,052 in order for it to have an opportunity through efficient management to earn the 6.03% rate of return on the fair value of its property used and useful in serving its customers. This increased revenue requirement is based upon the fair value of its property and reasonable test year operating revenues and expenses as heretofore determined.

22. That the schedule of rates, charges, and regulations included in Appendices A, B, C, and D of this Order are found to be just and reasonable.

23. That charging for directory assistance is an appropriate means of relieving those subscribers who do not use directory assistance excessively of the cost of said service and requiring those who use the service excessively to pay in accordance with the service used.

PRELIMINARY FINDINGS

The preliminary Findings are based on the official records of the Commission and the verified application.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence as to the quality of telephone service provided by Heins which appears in this record consists of the testimony and exhibits of Mr. Heins and Mr. Compton.

Mr. Heins testified that Heins Telephone Company has not had a service complaint filed with this Commission in the last three or four years and that this is an indication that Heins Telephone Company is providing good quality service. Mr. Heins also stated several specific examples of their efforts to maintain and improve the quality of service.

Mr. Compton testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service by Heins. He testified that the Staff's evaluation was based on results of field tests conducted on two separate occasions. The witness testified that the Staff's evaluation consisted of call completion tests, transmission and noise measurements, pay station tests, operator answer time tests and an analysis of customer trouble reports, service orders, and subscriber held orders. Based on the results of the Staff's investigation, the witness concluded that the company, overall, was meeting the service objectives established by the Commission. The service objectives have been established in prior Commission orders and represent the minimum levels of adequate service.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Heins Telephone Company is adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence relating to the possibility of excess plant consisted of the direct testimony of Benjamin R. Turner, Jr., Telephone Engineer, Telephone Service Section, North Carolina Utilities Commission, and the rebuttal testimony of James E. Heins, President and General Manager, Heins Telephone Company.

Mr. Turner presented direct testimony which dealt with his evaluation of the operating efficiency of Heins Telephone Company. The operating efficiency was evaluated by analyzing the reasonableness of operating expenses, telephone plant investment, central office engineering, and outside plant engineering.

Regarding the reasonableness of plant investment, Mr. Turner testified that in his opinion there was excess plant investment in the Sanford Central Office which was not used and useful in providing telephone service within a period of

2.5 years, a maximum engineering period. The amount of excess plant was computed by Mr. Turner to be 1,700 lines and 1,700 terminals equal to an investment of $304,516.

In his rebuttal testimony, Mr. Heins testified that at the time the decision was made to order the equipment at issue the actual growth was increasing at an increasing rate, essentially in accordance with the then applicable REA projection. He further testified that close examination of terminal growth for the last six months of 1972 could not have indicated a declining growth in terminals because for a company as small as Heins the fluctuation in terminals from month to month prevents any valid observation of growth trends by looking at such a short period of time.

The Commission concludes that the most compelling evidence is that of the management of the company in that the actions they took at the time of the plant expansion were prudent actions in view of the circumstances prevailing at the time of the decision. There was no evidence that the management of this small company had any substantial foresight to be able to predict the recession that caused the ultimate underutilization of the lines and terminals which we, in hindsight, can see so clearly. In assessing the propriety of a particular management decision, we conclude that it is proper to view the decision in light of the information and options available to a prudent management at the time the decision is made and that far less weight be given to hindsight evaluation.

For these reasons, the Commission concludes that an adjustment for excess plant is not proper.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence as to the reasonableness of Heins' depreciation rates consists of the testimony of Staff Witness Clemmons. Mr. Clemmons testified that he made a review and analysis of the depreciation rates used by Heins in this case and found that the rates which the company used for station connections (15%), aerial wire (10%), and vehicles (20%) were not appropriate. The witness testified that, based on his study, the appropriate depreciation rate for station connections is 12.5%, for aerial wire is 10%, and for motor vehicles is 13.3%. Mr. Clemmons further testified that he did not propose any changes in the depreciation rates used by the company for other plant accounts.

Heins did not offer any testimony concerning the reasonableness of the depreciation rates which it used in this case.

Based on the evidence of record, the Commission concludes that the depreciation rates recommended by Staff Witness Clemmons are reasonable and appropriate for determining depreciation expense in this rate proceeding and that these

rates should be used for depreciation purposes on the company's books effective January 1, 1976.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Heins Telephone Company develops cost separations studies annually for the purpose of conducting toll settlements on an actual cost basis with Southern Bell. The company's study, including basic traffic factors, is prepared by the consulting firm of John Staurulakis, Inc., and is reviewed and approved by Southern Bell. The company used the most recent study available as a basis for developing separation factors to be used in determining the test year level of toll revenues and to arrive at the company's intrastate level of operations.

Staff Witness Gerringer stated that the toll settlements study used by the company was revised prior to acceptance by Southern Bell. Witness Gerringer proposed separation factors based on the revised cost separations study.

The Commission concludes that the separation factors proposed by Witness Gerringer are proper in that they are based on the separation study agreed to by both the company and Southern Bell.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Commission will now analyze the testimony and exhibits presented by Company Witness Nunnally and Staff Witness Winters concerning the original cost net investment in telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper:

| Item (a) | Company Witness Nunnally (b) | Staff Witness Winters (c) |
|---|---|---|
| Telephone plant in service | $13,580,940 | $13,561,033 |
| Less: Reserve for depreciation | 3,012,292 | 3,045,337 |
| Excess plant | | 250,756 |
| Net telephone plant in service | $10,568,648 | $10,264,940 |

As shown in the above chart, the first area of disagreement between the witnesses is the amount properly includable as investment in telephone plant in service. This difference of $19,907 results from the difference in the separation factors used by Company Witness Nunnally as compared to those used by Staff Witness Winters to allocate total company telephone plant in service in the amount of $15,929,302 to the company's intrastate operations. Witness Nunnally used a composite intrastate separation factor of 85.2576% while Witness Winters used a composite intrastate separation factor of 85.13263% which was developed by Staff Witness Gerringer.

Having previously found that the intrastate separation factors developed by Staff Witness Gerringer are proper for purposes of this proceeding in arriving at the appropriate level of investment, the Commission will use telephone plant in service in the amount of $13,561,033 ($15,929,302 X 85.13263%).

The next area of disagreement between the witnesses is the amount properly includable as the reserve for depreciation. Company Witness Nunnally testified that the end-of-period depreciation reserve was $3,012,292. Staff Witness Winters testified that the end-of-period depreciation reserve was $3,045,337 which is $33,045 more than that proposed by Witness Nunnally. This difference results from the following:

| Item (a) | Amount (b) |
|---|---|
| Application of different intrastate separation factors to the "per books" depreciation reserve | $ 4,762 |
| Staff adjustment to the depreciation reserve to give effect to the company's adjustment to bring depreciation expense to an end-of-period level | 65,131 |
| Staff adjustment to depreciation expense to give effect to the change in depreciation rates recommended by Staff Witness Clemmons | (27,826) |
| Staff adjustment to annualize depreciation expense charged to maintenance expense accounts | (9,022) |
| | $ 33,045 |

Both Witness Nunnally and Witness Winters testified that the total company reserve for depreciation per books at December 31, 1975, was $3,553,782.

In arriving at the proper level of operating revenue deductions we have added an amount of $65,131 to depreciation expense to give effect to the company's adjustment to bring depreciation expense to an end-of-period level; we have deducted an amount of $36,848 from depreciation expense to give effect to the change in depreciation rates proposed by Staff Witness Clemmons ($27,826) and to annualize depreciation expense charged to maintenance expense accounts as proposed by Witness Winters ($9,022); and, as previously explained, we have found that the intrastate separation factors developed by Witness Gerringer are proper for purposes of this proceeding. Consistent with the adjustments to depreciation expense described hereinabove we have used reserve for depreciation of $3,045,337 in developing the net investment in telephone plant in service which may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Reserve for depreciation "per books" | $3,553,782 |
| Staff allocation factor | .84897 |
| Intrastate amount | 3,017,054 |
| Add: Adjustment to increase depreciation expense | 65,131 |
| Deduct: Adjustments to decrease depreciation expense | 36,848 |
| | $3,045,337 |

The final area of disagreement between the witnesses with regard to the amount properly includable as net telephone plant in service results from Witness Winters' adjustment of $250,756 to reflect the elimination of excess telephone plant from the original cost net investment as proposed by Staff Witness Turner.

As discussed under Evidence and Conclusions for Finding of Fact No. 6, the Commission did not adopt the excess plant adjustment proposed by Witness Turner; therefore, it would be improper to include this amount in developing the net investment in telephone plant in service.

The Commission concludes that the following calculation of net telephone plant in service is appropriate for use herein:

| Item (a) | Amount (b) |
|---|---|
| Telephone plant in service | $13,561,033 |
| Less: Reserve for depreciation | 3,045,337 |
| Net telephone plant in service | $10,515,696 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Staff Witness Winters proposed that Heins Telephone Company's investment in Rural Telephone Bank (RTB) Class B stock in the amount of $295,304 be included in the calculation of the original cost net investment. Company Witness Nunnally did not include this item of cost in his determination of the original cost net investment. Witness Winters testified that all companies borrowing from the RTB are required to purchase RTB Class B stock in an amount equal to 5% of the original amount of the loan. For example, if a telephone company wishes to borrow $1,000,000 from the RTB, it must purchase $50,000 of RTB Class B stock and sign a note for $1,050,000. From this example it is clear that the funds used to purchase the RTB stock are included in the loan from the RTB. The long-term debt as shown on the company's books, which includes all loans from RTB, was used in the calculation of both the capital structure and the embedded cost of debt. If the RTB Class B

stock acquired as a condition of the loan is not considered in determining the cost of service, the company will not be allowed an opportunity to recover this component of cost. However, RTB stock acquired as patronage dividends should not be included in the original cost net investment. Patronage dividends are of the nature of stock dividends and in no way change the amount of Heins Telephone Company's ownership in the RTB, nor do patronage dividends change the amount of debt owed to the RTB or its interest cost.

The Commission concludes, based on the above discussion, that Heins Telephone Company's investment in RTB Class B stock in the amount of $299,304 should be included in the original cost net investment.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Commission will now analyze the testimony and exhibits of Company Witness Nunnally and Staff Witness Winters concerning the amount each witness considers properly includable in the original cost net investment as an allowance for working capital.

The following chart presents the amount proposed by each witness:

| Item (a) | Company Witness Nunnally (b) | Staff Witness Winters (c) |
|---|---|---|
| Cash | $ 152,105 | $ 119,757 |
| Materials and supplies | 152,491 | 152,393 |
| Average prepayments | 17,367 | 17,107 |
| Average tax accruals | (124,146) | (123,623) |
| Customer deposits | (25,097) | (27,859) |
| Total | $ 172,720 | $ 137,775 |

Company Witness Nunnally testified that the working capital allowance, which he considered proper, was composed of a cash allowance of 1/12 of operating revenue deductions excluding depreciation and before pro forma adjustments plus materials and supplies and average prepayments, less average tax accruals and average customer deposits.

Staff Witness Winters testified that the working capital allowance, which he considered proper, was composed of a cash allowance of 1/12 of operating expenses including interest on customer deposits and after pro forma adjustments plus materials and supplies and average prepayments, less average tax accruals and end-of-period customer deposits.

After carefully considering the evidence presented by each witness the Commission concludes that the method of determining the allowance for working capital proposed by

the Staff is consistent with the formula method employed by the Commission in recent rate proceedings and that this method more accurately reflects the company's actual working capital requirement. Accordingly, the Commission will use $138,617 as the proper test year level of working capital, which may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Cash (1/12 of operating expenses) | $ 120,599 |
| Materials and supplies | 152,393 |
| Average prepayments | 17,107 |
| Average tax accruals | (123,623) |
| Customer deposits (end-of-period) | (27,859) |
| | $ 138,617 |

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12, 13, AND 14

Although the term "replacement cost" envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in the art of telephony, trended original cost as presented by the company is founded upon the premise of duplication of plant as is, with certain inefficiencies and outmoded designs included. While obsolescence can, to an extent, be accounted for in proper depreciation treatment, the economies of scale inherent in the telecommunications industry (e.g., employing one 600-pair cable down a road instead of six 100-pair cables installed over a number of years) are not fully recognized in the trending process. The Staff testimony recognizes this fact but does not offer a recommended adjustment for the economies which would be achieved through "mass impulse" plant construction.

Company Witness Hal L. Carnes, Jr., P.E., a consultant to Heins, testified with respect to his determination of the Net Trended Original Cost valuation of Heins' North Carolina properties used and useful in furnishing telephone service as of December 31, 1975. Witness Carnes calculated his net trended original cost by computing a surviving investment, a depreciation reserve, and a net original cost, by years, for the telephone plant in service to Heins Telephone Company. He then trended the result upwards, by application of the Consumer Price Index, to show the effect of inflation on the cost of Heins' plant. All plant was lumped together and trended with one index. Staff Witness Clapp agreed, that even though this lumping of all plant for trending by one factor is not viewed by him as an acceptable method, the cost of going through a more elaborate procedure is not justified.

To compute his fair value, Witness Carnes added the net original cost of the plant from years 1956 through 1964 to

his net replacement cost of the plant from the years 1965 through 1975.

Staff Witness Allen L. Clapp, P.E., Chief of the Operations Analysis Section, Engineering Division, Utilities Commission Staff, testified that the following procedures should be used throughout the study for a trended original cost study to be reliable.

(1) The original cost of plant placed in service in each year must be reduced by the retirements of that vintage plant which have occurred since the original installation.

(2) These surviving original cost dollars must be further reduced by deduction of the depreciation which has occurred against those surviving installations.

(3) The original cost dollars surviving from each year, net of the depreciation which has occurred to the plant placed in that year, must be trended using an index which is properly reflective of the changes in costs, proportions of material and labor, and productivity of both factor inputs and the capabilities of the completed installation over the years being studied. The trending can be accomplished before or after the plant is depreciated as long as both the vintage plant and the vintage depreciation applicable to it are trended with the same index.

Staff Witness Clapp discussed several aspects of Company Witness Carnes' calculations. Witness Clapp indicated that the assignment of retirements to vintage years by Witness Carnes was distorted but pointed out that Witness Carnes had counteracted this distortion by excluding some very old dollars from the trending process. Witness Clapp accepted these opposing actions as "reasonable under the circumstances" and proposed no further adjustment for that distortion.

Staff Witness Clapp criticized the use of the book reserve ratios for developing depreciation for replacement cost for Heins. He testified that the result of Witness Carnes' calculations was to understate the depreciation and, therefore, overstate the replacement cost. Witness Clapp proposed that depreciation based upon a theoretical reserve applicable only to the surviving plant would be more appropriate, since early retirements of now nonexistent plant had affected the actual depreciation reserve. Witness Clapp admitted that this method could overstate depreciation and thus understate the depreciated replacement cost. He stated that the actual figure was between those given by the two methods but that the theoretical reserve was closer and was the more conservative method of the two.

Recognizing that the lack of complete data on the actual age of the original cost dollars of investment in every account precludes certainty that each dollar is trended by the correct trend factor, and also that the gathering and maintaining of such complete data would be very expensive and time consuming, the Commission concludes that the methods used by the witnesses in this case to estimate the age distribution of original cost dollars can lead to a reasonable indication of the replacement cost of the plant in service, if all other factors affecting replacement cost are correctly employed.

The Commission concludes that the reasonable replacement cost less depreciation of Heins' telephone plant in service at December 31, 1975 is $13,300,000.

Having determined the appropriate original cost of net investment in plant in intrastate service to be $10,515,696 and the reasonable estimate of replacement cost of that plant to be $13,300,000, the Commission must determine the fair value of Heins' net plant in service.

The method of deriving fair value by Witness Carnes is outlined above. Staff Witness Clapp testified that the weighting process allows a placement of judgment on the reliability of the estimates of replacement cost and a consideration of how much compensation for inflation is necessary to the company. He also testified that since it is impossible to compensate bondholders for the effects of inflation upon their investment because of their contractually fixed rate of return, it is only necessary to consider compensation to the shareholders. A weighting of replacement cost equal to the equity ratio of the capital structure would indicate a 100% compensation for inflation of the equity investment in plant and a complete confidence in the reliability of all replacement cost estimates. Staff Witness Clapp recommended weighting the replacement cost less depreciation by 1/5 and the original cost less depreciation by 4/5.

The Commission concludes that a blind weighting of the replacement cost and the original cost in the same proportion as the equity and debt portions of the capital structure would merely be reducing to a mathematical formula an important area of judgment which the Commission must exercise. This treatment requires the Commission to conclude that the amounts of original cost were exactly correct; that the equity holders should be protected completely from the effects of inflation; that the effects of inflation are known; that the replacement cost is completely reliable; and that the depreciation reserves of both original cost and replacement cost reflect precisely the degree of wear and tear, obsolescence and other factors that are supposed to be reflected in these accounts. Its use would also preclude the Commission from considering such factors as age and condition to the extent that it is not properly reflected in the accounts.

The Commission also disagrees with Witness Clapp's testimony that no benefit accrues to the bondholders through the fair value increment. The express allowance by the Commission of the fair value increment to the fair value rate base gives further protection to the investment of the bondholders by increasing the earning value of the assets underlying the investment.

The Commission concludes that a 3 to 1 weighting of original cost to replacement cost is reasonable and appropriate in this case. By this method, using the depreciated original cost of $10,515,696 and the depreciated replacement cost of $13,300,000, the Commission finds that the fair value of Heins' utility plant devoted to intrastate telephone service in North Carolina is $11,211,772. This fair value includes a reasonable fair value increment of $696,076.

The fair value of Heins' plant in service to its customers within the State of North Carolina at the end of the test year of $11,211,772 plus the reasonable allowance for working capital of $138,617 plus Rural Telephone Bank stock of $299,304 yields a reasonable fair value of Heins' property in service to North Carolina customers of $11,649,693.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Company Witness Nunnally, Staff Witness Winters, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer's testimony specifically concerned the separations procedures employed by the company to allocate the test year level of revenues, expenses, and investment to the company's intrastate operations and the procedures employed in determining the approximate end-of-period level of toll revenues. Witness Nunnally and Witness Winters testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments. The following chart presents the amount proposed by each witness prior to annualization to year-end.

| Item (a) | Company Witness Nunnally (b) | Staff Witness Winters (c) |
|---|---|---|
| Local service | $1,725,050 | $1,736,698 |
| Toll service | 1,171,864 | 1,203,742 |
| Miscellaneous | 116,699 | 116,699 |
| Uncollectible | (2,846) | (2,846) |
| Total | $3,010,767 | $3,054,293 |

The first item of difference between the witnesses is the amount properly includable as local service revenue. Company Witness Nunnally calculated the end-of-period level of local service revenue by increasing actual revenue to

give full effect to the phasing in of one-party flat charge rentals as part of the company's upgrading of service program and by decreasing local service revenue to reflect the elimination of rates applicable to color charges which occurred subsequent to the test year.

Staff Witness Winters calculated the test year level of local service revenue by multiplying the actual monthly subscriber station revenue billed end-of-period customers by 12. Pay station revenues and private line and local loop revenues were adjusted to an end-of-period level by use of the station annualization factor, while nonrecurring charges were based on current rates applied to June, 1975 work units. The company did not cross-examine Witness Winters on his adjustment or offer rebuttal testimony on his calculation of local service revenue.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the method of calculating the test year level of local service revenue employed by the Staff is proper and, accordingly, will use $1,736,698 as the test year level of local service revenue.

The next item of difference between the witnesses is the amount properly includable as intrastate toll revenue.

As previously explained, Staff Witness Gerringer testified concerning the end-of-period level of intrastate toll revenue. Witness Gerringer stated that he utilized the end-of-period level of investment and operating expenses and an intrastate toll settlement rate of return of 8.25% in calculating the test year level of toll revenue. The rate of return of 8.25% is based on the average of the actual rates of return for the nine months of July, 1975 through March, 1976, annualized. These returns (six occurring within the test period) include the revenue effect of the increase in intrastate toll rates that became effective July 1, 1975, as allowed by the Commission in Docket No. P-100, Sub 34. Each return also reflects a downward adjustment due to an error in Southern Bell's original calculation. This error was caused by improper apportionment of the investment in intertoll dial switching equipment by Southern Bell over a period of one year, April, 1975 through March, 1976.

Company Witness Nunnally in rebuttal testified that he believed that a rate of return between 7.50% and 7.65% would be more reasonable than the 8.25% return used by Witness Gerringer. Witness Nunnally arrived at his range of returns by considering the actual monthly rate of return for each of the six months immediately subsequent to the test year, January, 1976 through July, 1976, excluding the month of May. The month of May was excluded because the actual return for that month reflected the adjustment for the full year's impact of the error caused by improper apportionment of the investment in intertoll dial switching equipment by Southern Bell. Witness Gerringer testified that the 8.25%

rate of return he used was based on the annualized actual intrastate toll rates of return adjusted for the error previously described, for the nine months of July, 1975 through March, 1976. These returns were the only actual monthly returns available at the time Witness Gerringer prepared his testimony. At the date of the hearing the actual rates of return for the months of April, May, June, and July of 1976 were known. By including the returns for these later months, excluding May due to error impact, with the returns for the months of July, 1975 through March, 1976, the annualized return used by Witness Gerringer changes from 8.25% to 8.11% and causes Witness Gerringer's recommended level of end-of-period intrastate toll revenues to change from $1,268,583 to $1,260,911 for a decrease of $7,672.

Staff Witness Gerringer testified that his end-of-period toll revenue calculation did not include the effect of adjustments to the toll settlements base and to operating expenses proposed by Staff Witness Winters. Witness Winters reduced intrastate toll revenues by $41,127 to give effect to the Accounting Staff's adjustments to depreciation reserve, deferred income taxes, amortization of unrealized Job Development Investment Tax Credit, excess plant, depreciation expense due to changes in rates, maintenance expense, public telephone commissions, and depreciation expense on excess plant. As discussed under Findings of Fact Nos. 9, 16, and 18, the Commission adopted Witness Winters' adjustments to the depreciation reserve, deferred income taxes, amortization of unrealized Job Development Investment Tax Credits, depreciation expense due to changes in rates, wages, and public telephone commissions. As discussed under Findings of Fact No. 6 and No. 16, the Commission did not adopt the Staff's adjustments for excess plant or extraordinary maintenance. When the intrastate toll rate of return is reduced from 8.25% to 8.11% and after giving effect to the adjustments proposed by Witness Winters which were adopted by the Commission, the amount of Witness Winters' adjustment to toll revenue would decrease from $41,127 to $21,288.

Based on the foregoing discussion of the evidence in this proceeding, the Commission concludes that the proper level of intrastate toll revenue prior to annualization to year-end is $1,215,674 ($1,260,911 less $21,288 divided by the annualization factor of 1.0197).

The evidence shows that the witnesses are in agreement with regard to the proper level of miscellaneous revenue and uncollectibles. The Commission, therefore, concludes that the proper level of miscellaneous revenue is $116,699 and that the proper level of uncollectible revenue is $2,846 before annualization to year-end.

The proper level of operating revenues before annualization to year-end of $3,066,225 may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Local Service | $1,736,698 |
| Toll Service | 1,215,674 |
| Miscellaneous | 116,699 |
| Uncollectibles | (2,846) |
| Total | $3,066,225 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Company Witness Nunnally and Staff Witness Winters offered testimony and exhibits presenting the level of intrastate operating revenue deductions which they believed should be used for the purpose of fixing the Applicant's rates in this proceeding.

The following chart sets forth the amounts presented by each witness:

| Item (a) | Company Witness Nunnally (b) | Staff Witness Winters (c) |
|---|---|---|
| Operating revenue deductions | | |
| Operating expenses | $1,485,787 | $1,408,700 |
| Depreciation | 695,260 | 654,592 |
| Amortization | 7,780 | 7,777 |
| Operating taxes | 393,135 | 398,816 |
| Interest on customer deposits | | 620 |
| Income taxes | 9,597 | 97,835 |
| Total | $2,591,559 | $2,568,340 |

As shown in the above chart, the witnesses disagree as to the amount properly includable as operating expenses. This difference of $77,087 ($1,485,787 - $1,408,700) results from the following:

| Item (a) | Amount (b) |
|---|---|
| Use of different separation factors to allocate total company operating expenses to intrastate operations | $22,255 |
| Witness Winters' adjustment to wage expense | (7,761) |
| Witness Winters' adjustment to annualize depreciation expense charged to maintenance expense accounts | 8,352 |
| Witness Winters' adjustment to public telephone commissions | (4,035) |
| Witness Winters' adjustment to normalize extraordinary maintenance expense due to bridge construction | (4,684) |
| Total | $77,087 |

The Commission has previously found that the separation factors developed by Staff Witness Gerringer are proper for use in this proceeding and accordingly adopts the resultant $22,255 reduction in operating expenses.

As shown above, the second item of difference results from Staff Witness Winters' adjustment to wage expense. Witness Winters testified that the company in calculating the test year level of wages charged to expense had not taken into consideration a decrease in the number of employees which occurred during the test year and certain increases in wages occurring subsequent to the close of the test year. Witness Winters determined end-of-period wages by annualizing actual nonsupervisory wages paid between January and June, 1976 and by annualizing supervisory and management salaries on the basis of the actual rates of pay in effect at June 30, 1976. While the end-of-period level of wages determined by using the method employed by Witness Winters is not materially different from the adjusted level of wages determined by the company, Witness Winters testified that it was improper to apply the annualization factor to the company's adjusted level of wages and proposed an adjustment to deannualize the company's level of wages charged to expense.

The Commission concludes that the calculation of test year wages employed by Staff Witness Winters reflects the end-of-period level and, therefore, adopts the $(7,761) adjustment to wage expense.

The third item shown above results from the adjustment proposed by Staff Witness Winters to annualize depreciation expense charged to maintenance expense accounts. Witness Winters testified that depreciation expense charged to maintenance expense accounts had not been included in the company's adjustment to annualize depreciation expense.

The Commission concludes that it is proper to annualize depreciation expense charged to maintenance expense accounts and accordingly adopts the $8,352 reduction in maintenance expense proposed by Witness Winters.

The fourth item shown above concerns the adjustment made by Witness Winters to public telephone commissions. During the test year the following types of public telephone commissions were charged to operating expense:

1. Hotel or motel commissions paid.
2. Semipublic pay station commissions applied to guaranteed billings.
3. Semipublic pay station commissions paid on the excess of local revenue over the guaranteed amount, computed at a 25% rate.

Hotel and motel commissions were eliminated by Commission Order in Docket No. P-100, Sub 35, in December, 1975; therefore, such commissions should be eliminated from the test year level of expense.

Semipublic pay station commissions applied to guaranteed billings are a necessary and proper expense to be included in the test year cost of service; however, Staff Witness Winters testified that this item of cost was reflected in his exhibit as a reduction to local service revenue, therefore requiring that this cost be removed from the test year level of expense. This contention was not contravened by the company.

The company has included in this docket an application to eliminate commissions paid on semipublic pay station revenues in excess of the guaranteed amount. In the approved rates in Appendix A the Commission has excluded these commissions; therefore, this item of cost should not be included in the test year level of expense.

Based on the foregoing discussion of the evidence presented with regard to public telephone commissions, the Commission will exclude this item of cost in the amount of $14,035 from the test year level of expense.

The remaining difference in operating expenses to be considered by the Commission concerns Witness Winters' adjustment to normalize an extraordinary maintenance expense. Witness Winters stated that because of bridge construction by the State Highway Department the company was required to lower a portion of its underground conduit. Witness Winters testified on cross-examination that the company had not incurred a similar cost in prior years.

The company offered the rebuttal testimony of Walter Drury, the company comptroller. Witness Drury testified that this relocation of conduit was the only one to occur in some time; however, there had been other relocations of aerial cable and lines in prior years. Witness Drury

testified that the expense incurred due to highway relocations for this type project was approximately $18,000 in 1971, $35,000 in 1972, $6,000 in 1973 and $2,000 in 1974. Witness Drury further testified that he saw no reason why this particular maintenance expense due to bridge construction should be singled out as extraordinary.

Based on the above discussion, the Commission concludes that maintenance expenses related to relocation of highways by the State Highway Department are normal, recurring items of cost and that the adjustment to normalize the expense associated with the conduit relocation proposed by Witness Winters is improper.

As discussed in Evidence and Conclusions for Finding of Fact No. 23, the Commission adopted Staff Witness Chase's proposal to initiate directory assistance charges which results in a reduction of $4,772 in the test year level of expense.

The proper level of operating expenses before annualization to year-end of $1,418,612 may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Operating expense proposed by Company Witness Nunnally | $1,485,787 |
| Decreases in expense due to: | |
| Use of separation factors proposed by Staff | 22,255 |
| Staff wage adjustment | 17,761 |
| Staff adjustment to annualize depreciation expense charged to maintenance expense accounts | 8,352 |
| Staff adjustment to public telephone commissions | 14,035 |
| Staff adjustment to reflect directory assistance charges | 4,772 |
| Total | 67,175 |
| Test year level of operating expenses | $1,418,612 |

The second area of difference in the test year level of operating revenue deductions concerns depreciation expense. Company Witness Nunnally testified that the appropriate level of depreciation expense was $695,260, while Staff Witness Winters testified that the appropriate level was $654,592, a difference of $40,668. This $40,668 is comprised of the following:

| Item (a) | Amount (b) |
|---|---|
| Use of different separation factors to allocate total company depreciation expense to intrastate operations. | $ 1,370 |
| Witness Winters' adjustment to give effect to changes in depreciation rates proposed by Witness Clemmons | 26,667 |
| Witness Winters' adjustment to eliminate depreciation expense on excess plant | 12,631 |
| Total | $40,668 |

The Commission has previously found that the separation factors developed by Staff Witness Gerringer are proper for use in this proceeding and accordingly adopts this $1,370 reduction in depreciation expense.

The second item listed above concerns the adjustment made to depreciation expense to reflect the changes in depreciation rates proposed by Staff Witness Clemmons. As discussed under Evidence and Conclusions for Finding of Fact No. 7, the Commission has adopted the depreciation rates proposed by Staff Witness Clemmons and accordingly adopts this $26,667 reduction in depreciation expense.

The third item listed above concerns Witness Winters' adjustment to depreciation expense to give effect to the excess plant adjustment proposed by Staff Witness Turner. As discussed under Evidence and Conclusions for Finding of Fact No. 6, the Commission did not adopt the excess plant adjustment proposed by Witness Turner and accordingly does not adopt the related adjustment of $12,631 to depreciation expense.

The proper level of depreciation expense before annualization to year-end of $667,223 may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Depreciation expense proposed by Company Witness Nunnally | $695,260 |
| Decreases in expense due to: | |
| Use of separation factors proposed by Staff | 1,370 |
| Staff adjustment to give effect to changes in depreciation rates | 26,667 |
| Total | 28,037 |
| Test year level of depreciation expense | $667,223 |

The third area of difference in the test year level of operating revenue deductions concerns amortization. This

difference results solely from Witness Winters' having allocated total company amortization to the company's intrastate operations using separation factors developed by Staff Witness Gerringer. The Commission has previously found that the separation factors proposed by Witness Gerringer are proper and accordingly adopts $7,777 as the test year level of amortization expense prior to annualization to year-end.

The fourth area of difference in the test year level of operating revenue deductions concerns operating taxes - other than income. Company Witness Nunnally testified that the appropriate level of operating taxes was $393,135 while Staff Witness Winters testified that the appropriate level was $398,816. This difference results from the difference in the separation factors used by Company Witness Nunnally as compared to those used by Staff Witness Winters to allocate operating taxes - other than income - to the company's intrastate operations and the difference in the level of gross receipts tax proposed by each witness.

The Commission has previously found that the separation factors developed by Staff Witness Gerringer are proper and accordingly adopts $65,726 as the test year level of payroll tax expense and $153,375 as the test year level of ad valorem tax expense as recommended by Witness Winters prior to annualization to year-end.

With regard to gross receipts tax, Company Witness Nunnally arrived at the end-of-period level by increasing the recorded book amount by the gross receipts tax applicable to his adjustments to intrastate revenues. Staff Witness Winters calculated the end-of-period level of gross receipts tax by multiplying the end-of-period level of intrastate revenue which he considered proper by the statutory gross receipts tax rate. Since the Commission has not adopted the revenues proposed by either witness, it becomes necessary for the Commission to make its own calculation of the end-of-period level of gross receipts tax expense.

Under Evidence and Conclusions for Finding of Fact No. 15, the Commission found that the proper level of operating revenues for rate-making purposes was $3,066,225. By multiplying this amount by the statutory gross receipts tax rate of 6% the Commission arrives at the test year level of gross receipts tax expense of $183,974 ($3,066,225 x 6%) prior to annualization to year-end.

The proper level of operating taxes - other than income - before annualization to year-end of $403,075 may be calculated as follows:

| Item (a) | Amount (b) |
|---|---|
| Payroll taxes | $ 65,726 |
| Ad valorem tax | 153,375 |
| Gross receipts tax | 183,974 |
| Total | $403,075 |

The fifth area of difference in the test year level of operating revenue deductions results from Witness Winters' having included interest on customer deposits as an operating revenue deduction.

Consistent with the Commission's having included customer deposits as a deduction in determining the test year level of working capital, it is entirely proper to include interest on customer deposits as an expense in arriving at the test year level of operating revenue deductions.

The sixth area of difference in the test year level of operating revenue deductions concerns income tax expense. Company Witness Nunnally testified that the appropriate level of income tax expense was $9,597, while Staff Witness Winters testified that the appropriate level was $97,835.

Since the Commission has not adopted all of the components of taxable income proposed by either witness, it becomes necessary for the Commission to make the following calculation of State and Federal income tax expense:

| | Item (a) | Amount (b) |
|---|---|---|
| 1. | Total operating revenues (net) | $3,066,225 |
| 2. | Operating revenue deductions: | |
| 3. | Operating expenses | 1,418,612 |
| 4. | Depreciation expense | 667,223 |
| 5. | Amortization | 7,777 |
| 6. | Operating taxes | 403,075 |
| 7. | Interest on customer deposits | 620 |
| 8. | Total deductions | 2,497,307 |
| 9. | Operating income before income taxes | 568,918 |
| 10. | Deduct: Interest | (366,135) |
| 11. | Add: Amortization | 7,777 |
| 12. | Life insurance premiums | 619 |
| 13. | State taxable income | 211,179 |
| 14. | State income tax rate | 6% |
| 15. | State income taxes | 12,671 |
| 16. | Federal taxable income | 198,508 |
| 17. | Federal income tax rate | 48% |
| 18. | Federal income taxes | 95,284 |
| 19. | Less - Surtax exemption | (3,628) |
| 20. | Amortization of investment tax credit | (18,939) |
| 21. | Federal income taxes | 72,717 |
| 22. | Total income taxes | $ 85,388 |

With regard to the above calculation of income tax expense the Commission points out that, consistent with the finding discussed under Evidence and Conclusions for Finding of Fact No. 18, the Commission has excluded from the test year level of expense the unrealized investment tax credits amortized as a reduction to income tax expense.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

Both Company Witness Nunnally and Staff Witness Winters included the unamortized balance of the Job Development Investment Tax Credit (JDC) as common equity in developing the company's capitalization structure, thus allowing the company to earn the full equity return on the unamortized balance of this cost-free capital.

The Commission concludes that the company's investment supported by JDC applicable to its intrastate operations should receive the full equity return.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The evidence for this finding of fact is contained in the testimony and exhibits of Company Witness Nunnally, Company Witness Cox, Staff Witness Currin, and Staff Witness Winters. The sole difference between the witnesses arose from Witness Winters' adjustment to reclassify the unrealized portion of the Job Development Investment Tax Credit (JDC) recorded in the company's books of account.

The following chart sets forth the capitalization structures presented by the witnesses:

| Item (a) | Staff Witness Winters (b) | Other Witnesses (c) |
|---|---|---|
| Long-term debt | 76.94% | 76.94% |
| Common equity | 19.80% | 20.85% |
| Cost-free capital | 3.26% | 2.21% |
| Total | 100.00% | 100.00% |

Witness Winters testified that during 1975 the company had available JDC in the amount of $237,707. Of the amount available, the company was able to utilize $89,448, leaving an unrealized balance of $148,259 to be carried forward to future years. The unrealized JDC of $148,259 was recorded in the company's books of account as deferred income tax. Witness Winters stated that this treatment results in an overstatement of unamortized investment tax credit and understatement of accumulated deferred income tax in the amount of $140,846 ($148,259 less $7,413 amortized to income tax expense) at December 31, 1975. Witness Winters stated that both the Uniform System of Accounts for Class A and Class B Telephone Companies and generally accepted accounting principles do not permit the recording of

unrealized JDC. Witness Winters' quote from the Uniform System of Accounts on redirect examination is as follows:

> "Paragraph 31:304: Investment Credits - Net - This account shall be charged and Account 174 'Other Deferred Credits' shall be credited with investment credits realized under the Internal Revenue Code when the company has elected to follow a plan of accounting which calls for realized investment credits to be taken into income in proportionate parts determined with reference to the average useful life of the property with respect to which the credits were allowed."

Witness Winters' quote from the American Institute of Certified Public Accountants' Accounting Principles Board Opinion No. 2 is as follows:

> "Carryforwards of unused investment credits should be reflected only in the year in which the amount becomes allowable in which case the unused amount would not appear as an asset."

Company Witness Cox testified on rebuttal that, in effect, investment credit laws recognize the credits as offsets against net deferred tax credits in a manner similar to that followed for operating loss carryforwards.

After careful consideration of the evidence presented, the Commission concludes that the recording of unrealized investment tax credits is improper and that the appropriate capital structure to be used in this proceeding is as follows:

| Item | Percent |
|---|---|
| (a) | (b) |
| Long-term debt | 76.94% |
| Common equity | 19.80% |
| Cost-free capital | 3.26% |
| Total | 100.00% |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

When the excess of the fair value of the property, or rate base, over the original cost net investment in the amount of $696,076 is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

| Item | Percent |
|---|---|
| (a) | (b) |
| Long-term debt | 72.34% |
| Common equity | 24.59% |
| Cost-free capital | 3.07% |
| Total | 100.00% |

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 20 AND 21

The company testified that its test year embedded cost rate for long-term debt was 4.43%. The Commission finds and concludes that the debt embedded cost rate is 4.43%.

Staff Witness Currin testified that in his best judgment the cost of book equity capital to Heins is 13.00% to 13.50%. Since Heins' equity is not traded in the major capital markets, conventional quantitative techniques could not be used. Instead, Witness Currin used a qualitative evaluation of the risk differential between Heins and the larger telephone utilities, Central and Western-Westco, to determine a risk premium to be added to the market returns of the larger, less risky telephone utilities.

Mr. Currin's analysis of the market returns of Central and Western-Westco attempted to show that the cost of equity in general, and to utilities specifically, has decreased in the past 18 months. In developing the risk premium for Heins, Mr. Currin testified that Heins' affiliation with REA effectively reduces much of the risk its stockholders would otherwise face. Accordingly, he recommended a relatively small risk premium for Heins.

The company sought a rate of return of 22.2% which after accounting adjustments was shown by the Staff to be 25.4%. Company Witness Flanigan generated a regression showing a relationship between the debt ratio and the price/earnings ratio for American Telephone and Telegraph Company. He then applied the model to Heins, but stopped short of using Heins' actual debt ratio and used a "conservative" figure. Professor Flanigan then took the resultant price/earnings ratio, inverted it to an earnings/price ratio, and represented that figure as the cost of equity to Heins.

We have two major objections to Professor Flanigan's methodology. Firstly, he claims that the sole determinant of AT&T's cost of equity is its debt ratio. While a company's debt ratio does influence its cost of equity, it ignores other factors that might affect AT&T's cost of equity. This precludes the consideration of Professor Flanigan's regression (developed for AT&T) to arrive at an earnings/price ratio for Heins.

Secondly, Professor Flanigan claims that an earnings/price ratio, if it could be established, would represent Heins' cost of equity. However, the earnings/price ratio is an indicator of the cost of equity only if the market price of a share of stock equals its book value. Thus, the use of earnings/price ratios is not appropriate for Heins.

The Commission notes that Heins' capital structure contains only 19.80% common equity. As the equity ratio decreases, the risk to an equity holder increases. Further, Heins' loan contract with the REA places dividend restrictions on the company based on its equity ratio. It

would seem prudent for the company to increase its equity ratio.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in State of North Carolina ex rel. Utilities Commission, et al. v. Duke Power Company 285 NC 377 (1974) wherein the following statements concerning the level of the fair rate of return appear at Page 396: "The capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment."

The Commission, therefore, concludes that it is fair and reasonable to consider, in its findings on rate of return, the reduction in risk to Heins' equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of Heins' capital structure. Considering the current investment markets in which Heins must compete for debt and equity capital and the other testimony relating to rate of return, the Commission concludes that a rate of return of 6.03% on the fair value of Heins' property used and useful in rendering telephone utility service to its customers in North Carolina is just and reasonable. Such a return on fair value will produce a return of 11.48% on fair value equity, including both book equity and the fair value increment, which is just and reasonable. The actual return on book common equity yielded by the rate of return of 6.03% multiplied by the fair value rate base is 15.16%.

The Commission has considered the tests laid down by G.S. 62-133(b)(4). The Commission concludes that the rates herein allowed should enable the company to attract sufficient debt and equity capital from the market to discharge its obligations and to achieve and maintain a high level of service to the public.

The following charts summarize the gross revenues and the rates of return which the company should have a reasonable opportunity to achieve based upon the increases approved herein. Such charts incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

SCHEDULE I
HEINS TELEPHONE COMPANY
DOCKET NO. P-26, SUB 76
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $ 1,736,698 | $455,052 | $ 2,191,750 |
| Toll | 1,215,674 | | 1,215,674 |
| Miscellaneous | 116,699 | | 116,699 |
| Uncollectibles | (2,846) | | (2,846) |
| Total operating revenues | 3,066,225 | 455,052 | 3,521,277 |
| Operating Revenue Deductions | | | |
| Operating expenses | 1,418,612 | | 1,418,612 |
| Depreciation | 667,223 | | 667,223 |
| Amortization | 7,777 | | 7,777 |
| Taxes other than income | 403,075 | 27,303 | 430,378 |
| Income taxes-state & federal | 85,388 | 218,665 | 304,053 |
| Interest on customer deposits | 620 | | 620 |
| Total operating revenue deductions | 2,582,695 | 245,968 | 2,828,663 |
| Net operating revenues | 483,530 | 209,084 | 692,614 |
| Add annualization factor (.0197) | 9,526 | | 9,526 |
| Net operating income for return | $ 493,056 | $209,084 | $ 702,140 |

| | | |
|---|---|---|
| Investment in Telephone Plant | | |
| Telephone plant in service | $13,561,033 | $13,561,033 |
| Less accumulated depreciation | 3,045,337 | 3,045,337 |
| Net investment in telephone plant in service | 10,515,696 | 10,515,696 |
| Investment in Rural Telephone Bank Class B Stock | 299,304 | 299,304 |
| Allowance for Working Capital | | |
| Materials and supplies | 152,393 | 152,393 |
| Cash | 120,599 | 120,599 |
| Average prepayments | 17,107 | 17,107 |
| Less: Average tax accruals | (123,623) | (123,623) |
| Customer deposits | (27,859) | (27,859) |
| Total allowance for working capital | 138,617 | 138,617 |
| Net investment in telephone plant in service plus investment in Rural Telephone Bank Class B Stock and allowance for working capital | $10,953,617 | $10,953,617 |
| Fair value rate base | $11,649,693 | $11,649,693 |
| Rate of return on fair value rate base | 4.23% | 6.03% |

SCHEDULE II
HEINS TELEPHONE COMPANY
DOCKET NO. P-26, SUB 76
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 8,427,713 | 72.34 | 4.43 | $373,348 |
| Common equity | | | | |
| Book $2,168,816 | | | | |
| Fair value increment 696,076 | 2,864,892 | 24.59 | 4.18 | 119,708 |
| Cost-free capital | 357,088 | 3.07 | - | |
| Total | $11,649,693 | 100.00 | 4.23 | $493,056 |
| | Approved Rates - Fair Value Rate Base | | | |
| Long-term debt | $ 8,427,713 | 72.34 | 4.43 | $373,348 |
| Common equity | | | | |
| Book $2,168,816 | | | | |
| Fair value increment 696,076 | 2,864,892 | 24.59 | 11.48 | 328,792 |
| Cost-free capital | 357,088 | 3.07 | - | |
| Total | $11,649,693 | 100.00 | 6.03 | $702,140 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 22

Walter L. Drury, Comptroller of Heins Telephone Company, testified regarding the Applicant's proposed rate schedules. In addition to increases in basic business and residence rates, Mr. Drury supported a slight increase in the business-to-residence individual line rate ratio and increases in the PBX and key trunk to individual line rate ratios. Mr. Drury also proposed changes in extension rates and in extension and tie line mileage charges using the route measurement basis. The Applicant's proposals for service charges included increases based on the existing format. Mr. Drury supported the proposal for an increase in the local coin rate and for the elimination of the payment of commissions to semipublic telephone subscribers. Mr. Drury explained that the proposals in the key system area would make the charges easier to administer and understand.

Millard N. Carpenter, III, Rate Analyst of the Commission's Telephone Rate Section, testified regarding his evaluation of the Applicant's rate proposals and his recommendations for additional and alternative changes. In the area of local service rates Mr. Carpenter noted that the rate ratios recently set by the Commission for other companies could produce extreme increases in the Applicant's business rates. Mr. Carpenter recommended expansion of the application of the key trunk rate, a change in the basis for rating mileage services, and changes in rates for some miscellaneous items. Mr. Carpenter presented a revised service charge format which he recommended as more equitable than the format used by the Applicant and stated his support for increases in service charges under that schedule to a level more closely based on costs. Mr. Carpenter supported the Applicant's proposals for an increase in the local coin rate and in the change in semipublic and key station billing.

Included in the service charge tariff which Mr. Carpenter recommended was a provision for time-payment of residence service charges. The provision would give residence customers the option of spreading the payment of service charges over the first two billing periods after the work is completed. Mr. Carpenter defended the proposal even though he admitted that administration of the option may cause an increase in expense to the Applicant.

Based on the testimony and exhibits of Mr. Drury and Mr. Carpenter, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Heins Telephone Company:

1. Basic Rate Schedule

   (a) The Commission concludes that the ratio between business and residence individual line rates should be increased to approximately 2.29 to 1, a level which the Commission, in its discretion, believes to be just and reasonable.

   (b) The Commission concludes that rates for PBX trunks and key trunks should be increased so that they will more nearly reflect relative value of service and relative costs.

2. Service Charges

   The Commission concludes that Heins' service charges should be increased to a level which more closely approximates the level of costs involved in doing the work and that the charges applicable for each request should depend on the actual work functions involved. The increased charges should be implemented using the format, with a slight modification, proposed by the Staff.

3. Coin Telephone Service

The Commission concludes that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been numerous increases in the cost of providing this service and that the charge has not been increased for over twenty years.

4. Supplemental Services and Equipment

The Commission concludes that the provision of supplemental services and equipment should not result in a burden upon subscribers to basic service and that the rates should be set accordingly.

5. Mileage Services

The Commission concludes that rates for local mileage services should be based upon direct airline measurement and that the rates should be increased to more closely cover the costs of this class of service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 23

Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified that directory assistance has become an expensive service to provide and is a service where the cost can be identified for rendering the service as well as for identifying the amount of service used by each subscriber. Further, he testified that there is no question that the use of directory assistance will increase, not because there will be more subscribers but because more subscribers will use the service excessively if means are not taken to curb the use. Further, a charge for directory assistance is a fair way to reduce the use and to allow those using the service excessively (5 calls per month per subscriber) to pay accordingly, especially, since excessive use generally involves certain types of businesses and very few residential subscribers. Mr. Chase recommended the approval of the directory assistance charge plan as authorized for Central Telephone Company.

Applicant did not offer testimony relating to directory assistance charges.

Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific services used. A large number of calls are made for information that is readily available. This practice places a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal

ability to maintain telephone service. An estimated reduction of approximately 60% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that an allowance of five (5) calls monthly will adequately provide for the reasonable needs of nearly all subscribers for numbers not otherwise available and that a charge of 20¢ for each local directory assistance request in excess of five (5) calls monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home numbering area. The Commission is of the opinion that a 60% reduction in local directory assistance calling may reasonably be expected. This would result in an annual expense decrease of $4,772 and increased revenues of $12,239.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent that they are unable to use the telephone directory should be exempted from D.A. charges.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Heins Telephone Company, be, and hereby is, authorized to increase its North Carolina local exchange rates and charges to produce additional annual gross revenues not to exceed $455,052 based upon stations and operations as of December 31, 1975, as hereinafter set forth in Appendices A and D.

2. That the rates, charges, and regulations set forth in Appendices A and D attached hereto, which will produce additional gross revenues of approximately $455,052 from said end-of-test-period customers, be, and hereby are, approved to be charged and implemented by the Applicant, effective on service to be rendered on and after the date of this Order except as noted hereinafter.

3. That the Applicant shall file within seven (7) days from the date of this Order the necessary revised tariffs reflecting the changes in rates, charges, and regulations shown in Appendix A. Revised tariffs reflecting the provisions in Appendix D shall be filed 30 days prior to the effective date of said provisions.

4. That the Applicant shall file 30 days prior to the effective date of March 1, 1977 the service charge tariff and related nonrecurring charges set forth in Appendices B and C attached hereto, which are hereby approved.

5. That the Applicant shall file quarterly reports on the amount of monthly local coin revenue collected from (1) public and (2) semipublic pay stations and the number of public and semipublic pay stations in service at the end of each month. All reports shall include in tabular form the data for all months in 1974, 1975, and 1976 and data for current months up to the time of the report. The first report shall be submitted by April 20, 1977. This requirement shall be completed upon the filing of the second quarterly report in 1978.

6. That the Applicant shall file monthly reports on the conversion of coin pay stations to the 20¢ charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced. The final report shall include the date on which all conversions were completed.

7. That Heins is authorized to begin directory assistance charges in accordance with Appendix D attached hereto within sixty-two (62) days of this Order and after the NOTICE attached as Appendix E is given to its subscribers as a bill insert or direct mailing within fifteen (15) or more days before directory assistance charges become effective. That Heins shall within thirty (30) days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix E, to all subscribers.

Should the company be unable to initiate directory assistance charges in accordance with the above provisions, it shall so advise the Commission.

Further, that Heins shall place in its telephone directories the directory information included in Appendix E relating to directory assistance charges.

8. That Heins Telephone Company make depreciation rates of 12.5% for station connections, 12% for aerial wire, and 13.3% for vehicles effective for depreciation purposes on the company's books as of January 1, 1976. The depreciation rates for all other plant accounts shall remain the same as filed in the company's application in this docket.

9. That the Applicant, Heins Telephone Company, shall make the necessary accounting entries to remove from its books of account all unrealized Job Development Investment Tax Credits at December 31, 1976. It is further ordered that the Applicant, Heins Telephone Company, shall not

record in its books of account unrealized Job Development Investment Tax Credits subsequent to December 31, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
HEINS TELEPHONE COMPANY
DOCKET NO. P-26, SUB 76

BASIC LOCAL SERVICE

| | Monthly Rate |
|---|---|
| Residence Individual Line | $ 7.10 |
| Business Individual Line | 16.25 |

OTHER LOCAL SERVICES

| | |
|---|---|
| Rotary Line (non-key) | 1.1 times the applicable individual line rate |
| Key Trunk | 1.2 times the applicable individual line rate |
| PBX Trunk | 2.0 times the applicable individual line rate |

SERVICE CHARGES

| | Nonrecurring Charge | |
|---|---|---|
| | Residence | Business |
| Service Ordering, Main | $14.00 | $21.00 |
| Equipment Work | | |
| Main | 4.00 | 6.00 |
| Extension | 2.50 | 3.75 |
| Access Line Work | 10.00 | 15.00 |
| Service Ordering, Extension | 10.00 | 15.00 |
| Equipment Work | | |
| First | 3.00 | 4.50 |
| Additional | 2.50 | 3.75 |
| Service Ordering, Inside Move or Change | 10.00 | 15.00 |
| Equipment Work | | |
| First | 3.00 | 4.50 |
| Additional | 2.50 | 3.75 |
| Number Change | 9.00 | 9.00 |
| Restoration | 9.00 | 9.00 |
| Mobile Service | 36.00 | 36.00 |
| Maintenance of Service | 24.00 | 24.00 |

See official file for complete Appendices A and B.

DOCKET NO. P-31, SUB 100

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application of Lexington Telephone Company for Authority to Increase its Rates and Charges in its Service Area Within North Carolina | ) ORDER GRANTING<br>) PARTIAL<br>) INCREASE IN<br>) RATES AND<br>) CHARGES |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602 - June 15 and 16, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney and J. Ward Purrington

APPEARANCES:

For the Applicant:

P. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina 27602

P. G. Stoner, Jr., and Bob W. Bowers, Stoner, Stoner and Bowers, Attorneys at Law, P. O. Box 457, Lexington, North Carolina 27292

For the Intervenors:

Richard L. Griffin, Attorney General's Office, Justice Building, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, and Theodore Brown, Assistant Commission Attorney, Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission on the application of Lexington Telephone Company (hereinafter Lexington, the Company, or Applicant) filed February 19, 1976, for authority to increase its rates and charges for telephone service. On that date Lexington also filed with the application information and data required by Commission Rules and Regulations. Lexington requested that the Commission authorize the proposed increases effective March 1976.

By Order issued March 9, 1976, the Commission denied Lexington's request to implement the proposed rates effective March 1976 and suspended the proposed increase

until further order of the Commission. In that Order the Commission set the matter for public hearing to begin on June 15, 1976, in the Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina. The Commission declared the application to be a general rate case under G.S. 62-137 and required that Lexington, at its expense, publish in newspapers the Notice of Hearing attached to the Commission's Order and, in addition, mail by bill insert the same Notice of Hearing to all of its customers. The Notice set forth the proposed increases, reflected the beginning date of public hearing, and informed members of the public of the manner by which comments or testimony could be received at the public hearing. The Order also set forth certain additional information requirements by the Commission.

On May 4, 1976, the Attorney General of North Carolina filed Notice of Intervention which said Notice was recognized by the Commission's Order of May 10, 1976.

The public hearing on Lexington's application began June 15, 1976, as scheduled. Lexington offered the testimony of William C. Harris, President and General Manager of the Company. He indicated that the Company's last increase in rates and charges was made effective July 1, 1971. He further described what changes had taken place since the last rate case with respect to Lexington's plant investment and financial requirements in regard thereto. He outlined the proposed increases and certain proposed changes in the various classifications of rates.

Lexington also presented the testimony of Bernard J. Campbell, Comptroller for the Company, who testified with respect to various accounting adjustments proposed by the Company and the accounts as reflected on the Company's books. He testified regarding Lexington's recommendation as to the fair value of the Company's properties. Both Mr. Harris and Mr. Campbell offered evidence with respect to rate of return. The Attorney General presented certain cross-examination exhibits involving both Mr. Harris and Mr. Campbell.

The Commission Staff offered the testimony of the following witnesses: Vern W. Chase, Chief Engineer, Telephone Rate Section, testified regarding the proposed rate design. Hugh L. Gerringer, Telephone Engineer with responsibilities in Telephone Toll Settlements and Separations, testified in regard to toll settlements and reviewed the same with respect to the Company's application and records. Gene A. Clemmons, Chief Engineer, Telephone Service Section, testified regarding equipment and traffic engineering of Lexington and reviewed the upgrading program of Lexington since the last rate case. Benjamin R. Turner, Telephone Engineer in the Telephone Service Section, testified regarding the Staff's field and service investigations setting forth the specific measurements of various aspects of the Company's service. He also testified

with respect to the Staff's investigation as to whether or not Lexington's investment should be adjusted for excess plant investment in the Company's general office building for which an adjustment had been made in Docket No. P-31, Sub 85. Henry Randolph Currin, Rate Analyst in the Operations Analysis Section, testified regarding his review of the Company's application and his recommendations with respect to its cost of capital and rate of return. Nancy B. Bright, Accountant for the Staff, testified with respect to the Staff Audit of Lexington's books and records and presented recommendations with respect to various accounting adjustments.

Mr. Harris offered certain rebuttal testimony after conclusion of evidence presented by the Commission Staff.

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

FINDINGS OF FACT

1. That Lexington is a duly franchised public utility providing telephone service to its subscribers and is a duly created and existing corporation authorized to do business in North Carolina and is lawfully before the Commission in this proceeding for a determination as to the justness and reasonableness of its rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the total increases in rates and charges under Lexington's application would have produced approximately $461,141 in additional annual gross revenues.

3. That Lexington's last rate application was allowed in part effective July 1, 1971, in Docket No. P-31, Sub 85.

4. That the test period used in this proceeding for the purpose of establishing rates as required by the Commission is the 12-month period ended August 31, 1975.

5. That the total revenues, expenses, and rate base of Lexington provide a reasonable basis upon which to establish rates as used by the Commission in prior cases for companies which settle on a standard contract basis.

6. That the overall quality of service provided by Lexington Telephone Company is adequate.

7. That the Company had excess net plant investment in the Company's general office building at the end of the test period amounting to $162,664 which was not used and useful in rendering telephone service.

8. That the original cost submitted by Lexington of its plant used and useful in providing telephone service in North Carolina is $13,698,475. From this amount should be

deducted the reasonable accumulated provision for depreciation of $3,552,179 and the excess net plant investment of $162,664, resulting in a reasonable original cost less depreciation of $9,983,632.

9. That the reasonable allowance for working capital is $168,279.

10. That the fair value of Lexington's plant used and useful in providing telephone service in North Carolina should be derived by taking the fair value rate base of $7,000,000 determined by this Commission in the last Lexington Telephone Company general rate proceeding, Docket No. P-31, Sub 85, subtracting the working capital allowance of $272,135 included in that amount, adding the adjusted net plant additions from September 1, 1970, to August 31, 1975, of $4,295,033, and subtracting the excess plant of $162,664 which was not used and useful in providing telephone service at the end of the test period. By using this method, the Commission finds that the fair value of Lexington's utility plant devoted to telephone service in North Carolina is $10,860,234. This fair value includes a reasonable fair value increment of $876,602. The addition of the reasonable allowance for working capital of $168,279 yields a reasonable fair value of Lexington's property in service of $11,028,513.

11. That the approximate gross revenues net of uncollectibles for Lexington for the test period are $3,568,403 under present rates and under Company proposed rates would have been $4,026,707, before annualization to year-end revenues.

12. That the level of Lexington's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $2,768,522, which includes an amount of $583,073 for actual investment currently consumed through reasonable actual depreciation, before annualization to year-end level.

13. That the proper annualization factor necessary to restate income after accounting and pro forma adjustments to end-of-period level as required by G.S. 62-133 is 1.135%.

14. That Lexington's capital structure at August 31, 1975, reflecting original cost common equity is as follows:

| | Percent |
|---|---|
| Total debt | 52.51% |
| Preferred stock | 11.97% |
| Common equity | 29.86% |
| Cost-free capital | 5.66% |
| | 100.00% |

15. That, when the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net

investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total debt | 48.34% |
| Preferred stock | 11.02% |
| Fair value common equity | 35.43% |
| Cost-free capital | 5.21% |
| | 100.00% |

16. That the Company's original cost equity ratio is 29.86%, and the fair value common equity ratio is 35.43%.

17. That the Company's proper embedded costs of total debt and preferred stock are 7.94% and 6.18%, respectively. The fair rate of return which should be applied to the fair value rate base is 8.30%. This return on Lexington's fair value property of 8.30% will allow a return on fair value equity of 10.67% after recovery of the embedded costs of debt and preferred stock.

18. That Lexington should be allowed an increase in additional annual gross revenues not exceeding $233,019 in order for it to have an opportunity through efficient management to earn the 8.30% rate of return on the fair value of its property used and useful in serving its customers. This increased revenue requirement is based upon the fair value of its property and reasonable test year operating revenues and expenses as heretofore determined.

19. That the schedule of rates and charges and the service charge tariff set forth in Appendices "A" and "B" attached to this Order are found to be just and reasonable.

20. That charging for directory assistance is an appropriate means of relieving those subscribers that do not use directory assistance excessively of the cost of said service and requiring those that use the service excessively to pay in accord with the service used.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Cost separations studies based on the procedures outlined in the FCC-NARUC Separations Manual are required annually for telephone companies making toll settlements with Southern Bell on an actual cost basis. These studies are complex, quite involved, and require highly trained personnel. Since the results of these studies are readily available, the Commission has accepted the intrastate portions of net investments, expenses, and revenues from these results for intrastate ratemaking. For companies, like Lexington Telephone Company, making toll settlements on a standard contract basis (nationwide average schedules), cost separations studies are not required at all. To have any company conducting toll settlements on a standard contract basis make a cost separations study solely for the purpose of ratemaking would be costly and time consuming

with the added cost to be borne by the company's ratepayers. In addition, without expending the necessary cost and time, the reliability of the results of the study would be uncertain. Thus, the Commission concludes that it is to the ratepayers' advantage that rate case proceedings for standard contract settlement companies be decided on total interstate-intrastate net investment, expenses, and revenues.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence as to the quality of telephone service provided by Lexington Telephone Company which appears in this record consists of the testimony and exhibits of Mr. Harris and Mr. Turner.

Mr. Harris testified that he began working for the Company in 1927 as a part-time employee and became the Company's President and General Manager in 1945. He described the history of Lexington Telephone Company, its growth in telephones and plant investment since 1945, efforts to improve telephone service, its need to retain and train qualified personnel, and its upgrading program. He also testified that the Company had no held orders for new or regraded service and that the Company had consistently met the Commission's trouble report objective of not more than 6 trouble reports per 100 stations except during severe storms.

Mr. Turner testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by Lexington Telephone Company. He testified that the Staff's evaluation was based on the results of field tests conducted on two separate occasions. The witness testified that the Staff's evaluation consisted of call completion tests, transmission and noise measurements, pay station tests, operator answer time tests, and an analysis of customer trouble reports, service orders, and subscriber held orders. Based on the results of the Staff's investigation, the witness concluded that the Company, overall, was meeting the service objectives established by the Commission. The service objectives have been established in prior Commission Orders and represent the minimum levels of adequate service.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Lexington Telephone Company is adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence as to the amount of excess plant investment which Lexington Telephone Company has consists of the testimony of Mr. Turner and Mr. Harris and the cross-examination exhibits of Witnesses Turner and Harris.

Mr. Turner testified, on the basis of his investigation and evaluation of the Company's general office building, that 31% of the office space was not being used and that since there had been some change in the number of employees in the building since the last general rate case in 1971 an appropriate adjustment for excess space would be 25% of the building's construction cost ($923,000). He further testified that an emergency generator located in the building was also excessive.

During cross-examination Mr. Turner testified that his evaluation of excess space was based on 35 employees located in the building and that, based on an estimated growth rate of 6.4%, it would take 10.7 years for the Company to fully utilize the building.

Mr. Harris testified that he did not consider the building to have excess space nor did he agree with Mr. Turner's evaluation. He also stated that there had been probably 39 or 40 employees in the building at the time of Mr. Turner's inspection and that there were 42 employees in the building at the time of the hearing. He further testified that the final contract cost of the building had been $798,843.

During rebuttal cross-examination Mr. Harris stated that the telephone plant in service investment in the general office building account was $908,168 at the end of the test year and that the amount of plant added to the building account in 1970 was $921,207.02.

The Commission takes judicial notice of a letter received from Mr. Harris on June 18, 1976, which details the plant additions to the building account in 1970 when the building was constructed. It shows the amount of plant added to the building account to be $891,268.89 which constitutes the general office building investment.

Based on the evidence of record the Commission concludes that the excess plant investment should be adjusted to reflect the difference between the number of employees used in Mr. Turner's testimony and the number of employees in the building at the time of the hearing as testified to by Mr. Harris. The Commission so concludes that 25.63% of the general office building is excessive based on 42 employees in the building at the conclusion of the hearing and that 5.81% excess space is a reasonable amount of excess space to be allocated over the next 4 years at which time the building will be 10 years old, a reasonable engineering period. The Commission, therefore, concludes the excess plant investment in the general office building to be 19.82%, the difference between 25.63% and 5.81%. With regard to the emergency generator installed in the subject building, the Commission concludes that 100% of this investment is excessive.

As to the amount of the original investment in the general office building, the Commission concludes that amount to be

$889,268.89 less the original cost of the emergency generator ($9,613), or $880,656. The amount of the building investment determined to be excessive is therefore equal to 19.82% of $880,656, or $174,744. Hence, the total amount of excessive investment in the general office is equal to the sum of the excessive building investment plus the emergency generator investment amounting to $184,357. The gross excess plant of $184,357 should be reduced by $21,693, the amount of depreciation reserve applicable to the plant which the Commission found as excess in the last Lexington Telephone Company general rate proceeding, Docket No. P-31, Sub 85. Therefore, the Commission concludes that the net excess plant in Lexington's total investment in telephone plant in service is $162,664 ($184,357 - $21,693).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission will now analyze the testimony and exhibits presented by Company Witness Campbell and Staff Witness Bright concerning the original cost of Lexington's telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

| Item | Company Witness Campbell | Staff Witness Bright |
|---|---|---|
| Investment in telephone plant in service | $13,698,475 | $13,698,475 |
| Less: Accumulated provision for depreciation | 3,530,671 | 3,552,179 |
| Net investment in telephone plant in service | $10,167,804 | $10,146,296 |

As the above chart shows, both witnesses agree that the total original cost of the telephone plant in service is $13,698,475.

Both witnesses agree that accumulated depreciation should be included as a deduction in calculating the net investment in telephone plant in service. The witnesses do not agree, however, on the proper amount of the deduction. Staff Witness Bright's accumulated depreciation of $3,552,179 represents the year-end balance of $3,530,671 in the account plus $21,508 which increases the reserve to an end-of-period level following the increase of actual depreciation expense to an end-of-period level. Witness Campbell made the increase in the level of depreciation expense but did not make the corresponding adjustment to the reserve. Ms. Bright testified that, since the ratepayers are being asked to pay in rates to cover an additional $21,508 in depreciation expense as if the plant in service at the end of the test period had been in service the entire test period, the depreciation reserve should also be increased as if the plant had been in service the entire test period.

The Commission concludes that it would be inconsistent to allow the Company to increase its depreciation expense to reflect the end-of-period level and not make the corollary adjustment to the accumulated provision for depreciation. Consequently, the Commission concludes that the adjustment made by Staff Witness Bright to increase depreciation reserve is reasonable and that the proper amount to be included as the depreciation reserve is $3,552,179.

In Finding of Fact No. 7 this Commission determined that Lexington has excess plant in the amount of $162,664 because the general office building cannot be considered entirely used and useful. Therefore, the Commission concludes that the reasonable net original cost of Lexington's telephone plant in service is $9,983,632 consisting of total investment in telephone plant in service of $13,698,475 less accumulated depreciation of $3,552,179 and excess plant capacity of $162,664.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Staff Witness Bright and Company Witness Campbell each presented a different amount for the working capital allowance.

Company Witness Campbell used as the total working capital allowance $342,922 consisting of the average balance of materials and supplies, cash equal to 1/6 of operating expenses exclusive of taxes and depreciation, less average Federal income tax accruals and customer deposits.

Staff Witness Bright presented a working capital allowance of $168,777 consisting of average materials and supplies, a cash allowance of 1/12 of operating expenses, excluding depreciation and taxes, and average prepayments, less average tax accruals and end-of-period customer deposits. Ms. Bright testified that she did not include an amount for compensating bank balances as in other recent telephone rate cases because the capital structure as recommended by Staff Witness Currin did not contain any short-term debt and the Company had indicated that no short-term debt would be issued for at least the next 12 months. She also stated that Lexington has no compensating bank balance requirements unless short-term debt is actually outstanding.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Bright should be used in this case. The allowance for working capital should be determined by adding average materials and supplies, cash equal to 1/12 of operating expenses, excluding depreciation and taxes, and average prepayments, less average tax accruals and end-of-period customer deposits. Using this method for the calculation, the Commission concludes that a reasonable allowance for working capital is $168,279.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company Witness Harris presented testimony concerning the fair value rate base of the Applicant. The Staff did not present testimony or offer any exhibits on this subject. Mr. Harris proposed that the fair value rate base be determined by taking the fair value rate base determined by the Commission in the last Lexington Telephone Company rate case, Docket No. P-31, Sub 85, and adding to it net additions in telephone plant at original cost. The Attorney General presented a cross-examination exhibit of Company Witness Harris on which the Attorney General developed a fair value rate base. The Attorney General presented an original cost rate base of $9,859,783 determined by taking net plant in service of $10,146,296 as developed by Staff Witness Bright and deducting from this amount $286,513 representing unused office space and the cost of an emergency generator as testified to by Staff Witness Turner. He presented a preliminary fair value rate base of $10,732,385 determined by taking the fair value rate base of $11,022,898 as developed by Company Witness Harris and deducting the $286,513 for unused office space and the cost of the emergency generator as testified to by Staff Witness Turner. He then gave a 2/3 weighting to the original cost amount and a 1/3 weighting to the preliminary fair value rate base to arrive at a final fair value rate base of $10,150,640 (exclusive of working capital allowance). This presentation by the Attorney General is not the method generally used to determine fair value. There was no evidence presented by any witness to show that original cost and the preliminary fair value rate base should be weighted in a ratio of 2 to 1 in order to calculate the final fair value rate base. The Commission sees no merit in using a preliminary fair value rate base as one of the components for calculating the final fair value rate base. A weighting of original cost and replacement cost has been used by this Commission on numerous occasions to develop a fair value rate base, but weighting original cost and a preliminary fair value rate base to determine a final fair value rate base has never been used, and the Commission can see no justification for using this method in this proceeding.

Based on the evidence presented, the Commission concludes that Mr. Harris' method of computing the fair value rate base for purposes of this proceeding is reasonable. The Commission therefore concludes that the fair value of Lexington's telephone plant in service is $10,860,234, computed by taking the fair value rate base at August 31, 1970, of $7,000,000, subtracting the $272,135 included in this amount as the working capital allowance, adding the net increase in depreciated telephone plant in service from September 1, 1970, to August 31, 1975, of $4,295,033, and subtracting $162,664, the amount of net excess plant found to be in Lexington's original cost plant in service at August 31, 1975. The Commission concludes that by adding the reasonable working capital allowance of $168,279 to the fair value of Lexington's plant in service thus derived the

reasonable fair value of Lexington's property in service to North Carolina ratepayers is $11,028,513. This includes a fair value increment of $876,602.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company Witness Campbell, Staff Witness Bright, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Witness Gerringer testified specifically concerning the status of the Company's toll settlements with Southern Bell Telephone and Telegraph Company, Mid-Carolina Telephone Company, and Piedmont Telephone Membership Corporation for the test period and the determination of the Company's representative toll revenues for the test period. Mr. Campbell and Ms. Bright testified as to the appropriate level of operating revenues after accounting and pro forma adjustments.

Mr. Campbell testified that the appropriate level of operating revenues before annualization is $3,534,689. Ms. Bright used Mr. Campbell's adjusted balance as a starting point for making one adjustment of her own in arriving at $3,568,403 as the proper level of operating revenues.

A difference of $33,923 in the amounts presented by the witnesses as operating revenues is reflected in an adjustment made by Witness Bright to bring Subscriber Station Revenues to an end-of-period level based on the August 1975 level of revenues. Ms. Bright testified that during the test period the Company carried on a program to regrade service for present subscribers from 4-party service to 1-party or 2-party service. Since a substantial amount of the regrading occurred in the latter part of the test year, using the station growth factor to bring Subscriber Station Revenues to an end-of-period level would understate these revenues because application of the station growth factor would only recognize additional revenues resulting from the increase in the number of stations and not from any increase in revenue due to the regrading of service. Ms. Bright further testified that, since net operating income would be multiplied by an annualization factor, she computed her adjustment to increase Subscriber Station Revenues by dividing the August annualized revenues by the growth factor and subtracting the Company's adjusted level of Subscriber Station Revenues.

Based on the evidence presented by the witnesses, the Commission concludes that the end-of-period level of operating revenues should include the full effect of the regrade program which took place during the test period. If the additional revenues resulting from the regrade program in effect during the test period are not recognized, the Applicant's revenues will not be stated at an end-of-period level. Since the Applicant's plant investment and operating revenue deductions have been stated at an appropriate end-of-period level, it is necessary that the revenues should also be stated at the appropriate end-of-period level;

therefore, the Commission concludes that an adjustment should be made increasing test period Subscriber Station Revenues by $33,923.

The remaining difference of $209 in the amounts proposed by the witnesses for operating revenues relates to the amount each witness included as uncollectible revenue. Both Ms. Bright and Mr. Campbell increased uncollectible revenue to reflect the uncollectible portion of their revenue adjustments.

The Commission concludes that, having adopted the revenue adjustments made by Witness Bright, it is also proper to adopt Witness Bright's uncollectible revenue amount of $21,829 (before annualization).

The Commission, therefore, concludes that the proper level of test year operating revenues is $3,568,403 (before application of annualization factor).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company Witness Campbell and Staff Witness Bright presented testimony and exhibits showing the level of operating expenses they believed should be used by the Commission for the purpose of fixing Lexington Telephone Company's rates in this proceeding.

The following chart shows the amount contended for by each witness:

| | Company Witness Campbell | Staff Witness Bright |
|---|---|---|
| Operating expenses | $1,621,951 | $1,582,630 |
| Depreciation and amortization | 593,009 | 586,354 |
| Taxes - other than income | 341,502 | 340,168 |
| Income taxes - state and federal | 212,353 | 263,516 |
| Interest on customer deposits | 347 | 347 |
| Total operating expenses before annualization | $2,769,162 | $2,773,015 |

The first item causing a difference in the amounts proposed for operating expenses as set forth above is an adjustment of $8,440 made by Staff Witness Bright to deannualize the Company's payroll adjustment, other than operator wages and the increase in plant clerical wages. Ms. Bright testified that, since the level of employees remained stable during the test period and subsequent to the end of the test period (except for operators which decreased), the adjustment made by the Company increasing payroll expense due to increases in wages effective December 1974 and September 15, 1975, brings wages and salaries to an end-of-period level. Ms. Bright contended that, since the number of employees was not increasing during the test

period, it would be improper to apply an annualization factor to the sum of the actual test period payroll expense plus the adjustment for the increases which took effect in December 1974 and September 1975. She also testified that, since net operating income will be multiplied by the annualization factor, the Company's adjusted level of wages should be deannualized by dividing the adjusted end-of-period level of wages by 1.01135.

Based on the evidence presented by the witnesses, the Commission concludes that it would not be proper to apply the annualization factor to the Company's adjusted level of wages because these wages are already stated at an end-of-period level since the number of employees did not increase during the test period. Application of the annualization factor to the Company's adjusted wage level would have been appropriate only if the number of employees had been increasing during the test period; therefore, the Commission concludes that Staff Witness Bright's adjustment decreasing the Company's adjusted wage level before annualization by $8,440 is proper. The proper level of wages and salaries before annualization (excluding operator wages and the increase in plant clerical wages) is $743,763.

The next item of difference between the witnesses relates to the amounts included in test period operating expenses for operator wages. Company Witness Campbell increased actual operator wage expense for wage increases effective in December 1974 and September 1975 using the number of operators actually working in December 1974 and June 1975.

Staff Witness Bright testified that she calculated the end-of-period level of operator wages which should be included in test period expenses by annualizing August 1975 operator wages and adjusting this level of wages for the September 1975 wage increase. Ms. Bright testified that the number of operators gradually decreased during the test period and has continued to decline since the end of the test period (from 69 on September 1, 1974, to 54 in March 1976). She contended that this decline in the number of operators during the test period should be recognized in determining the amount of operator wages to be included as test period expenses. Ms. Bright included $349,624 in operating expenses as a reasonable level of operator wages before annualization as compared to $380,004 included by Witness Campbell, a difference of $30,380.

The Commission concludes that Ms. Bright's annualization of the August 1975 operator wages adjusted for the wage increase effective September 15, 1975 is the appropriate manner to arrive at the end-of-period level of operator wages because the number of operators did decline throughout the test period and has not increased since the end of the test period. Witness Campbell's adjustment to operator wages was based on the actual number of operators employed during the test period. This method overstates the end-of-period level of operator wages since his adjustment was

based on a higher number of employees than were in fact employed at the end of the test period. The Commission concludes that the proper level of operator wages before annualization is $349,624, and Ms. Bright's adjustment of $30,380 is appropriate.

Another difference in the amounts included by the witnesses for wage expense is caused by an adjustment made by Staff Witness Bright increasing the Company's adjusted level of plant clerical wages by $748. Ms. Bright testified that the Company erroneously allocated more of the increase in plant clerical wages to capital accounts than was proper. She stated that her adjustment of $748 transfers the correct amount of the increase in plant clerical wages of $1,637 from capital accounts to expense accounts for the test period.

The Commission concludes based on the evidence presented that Witness Bright's adjustment increasing test period plant clerical wages by a total of $1,637 before annualization is proper.

The next item of difference between the two witnesses' operating expenses is reflected in an adjustment made by each of the witnesses to increase traffic expense due to a credit that was made to traffic expense during the test period for income received from Mid-Carolina Telephone Company which related to prior periods. Staff Witness Bright explained that the total amount of the credit which related to prior periods was $1,566. She also testified that the Company had made an adjustment which restored only $828 of this $1,566 to expense.

The Commission concludes from the evidence presented that test period operating expenses should be increased by the full $1,566 and accepts the additional $738 adjustment as proposed by Staff Witness Bright.

A difference in operating expenses of $1,298 ($115,675 - $114,377) is explained by an adjustment made by Staff Witness Bright deannualizing the pension expense included by the Company. Company Witness Campbell made an adjustment increasing test period pension expense by $2,710 to the level of actual cost for the calendar year 1975. Staff Witness Bright contended that this $2,710 adjustment placed the pension expense on an end-of-period basis. She testified that the $115,675 of pension expense included by the Company in operating expenses should be decreased by dividing by 1.01135. She stated that, when the $115,675 was divided by 1.01135, a result of $114,377 was obtained and, when the annualization factor is later applied to net operating income, pension expense will be restored to the proper end-of-period level of $115,675.

The Commission concludes that the level of pension expense included by the Company of $115,675 is an end-of-period amount and therefore should be reduced to $114,377 before

annualization as proposed by Ms. Bright. If Ms. Bright's adjustment was not made, the Applicant's end-of-period pension expense would be overstated.

The remaining difference of $689 in the amounts proposed by the witnesses for operating expenses is caused by an adjustment made by Staff Witness Bright eliminating charitable contributions. Ms. Bright also included in her exhibit a list of membership fees and dues paid by the Company during the test year.

The Commission concludes that the elimination of contributions in the amount of $689 from operating expenses is proper. To include this item would have the effect of requiring the ratepayers to involuntarily make contributions through the payment of telephone rates to an organization of the Company's choice. The Commission also concludes that membership fees and dues other than the Lexington Chamber of Commerce and National Safety Council dues should be eliminated from operating expenses in the amount of $900.

There are two additional adjustments decreasing operating expenses which should be made. The first arises from a cost reduction testified to by Company Witness Harris which Lexington may expect to experience by charging for directory assistance calls. Since the Commission is setting rates based on charging for these calls, the Commission concludes that the cost reduction of $4,133 as testified to by Witness Harris should be considered as a further reduction in operating expenses. This reduction of cost is based on a 60% reduction in calls which the Commission concludes reasonable.

The second cost reduction relates to a recommendation made by Staff Witness Chase that the present semipublic guarantee pay stations be changed to a flat rate as has been done for Southern Bell, Carolina Telephone Company, Central Telephone Company, and others. This change will eliminate the payment of commissions on these semipublic phones and will facilitate the operation of these phones. The Commission concludes that a cost reduction of $878 should be considered as a further reduction of operating expenses since the Commission is setting rates based on changing the semipublic guarantee pay stations to a flat rate.

The witnesses also disagree as to the proper level of depreciation expense before annualization. Staff Witness Bright made an adjustment of $6,655 ($593,009 - $586,354) to deannualize the depreciation expense included by the Company. Ms. Bright testified that the Company brought depreciation expense to an end-of-period level by calculating the level of depreciation which would be incurred on the end-of-period plant, an amount of $593,009. She also testified that, since net operating income is multiplied by the annualization factor, the Applicant's end-of-period depreciation expense of $593,009 must be divided

by 1.0135, or restated at $586,354, to prevent end-of-period depreciation expense from being overstated.

From the evidence presented, the Commission concludes that the level of depreciation expense calculated by the Company of $593,009 should be deannualized by dividing by 1.0135. Therefore, the Commission concludes that Ms. Bright's adjustment of $6,655 is appropriate. As was the case with pension expense, if Ms. Bright's adjustment were not made, the Applicant's end-of-period depreciation expense would be overstated.

One further adjustment should be made to depreciation expense for the test period. Since this Commission has found that there exists in the plant accounts $184,357 of excess capacity, the test period depreciation expense should be reduced by the amount of depreciation expense recorded on this excess plant during the test period. Using a depreciation rate of 1.8% and the gross excess plant of $184,357, the Commission concludes that depreciation expense for the test period should be reduced by $3,281 ($184,357 x 1.8% ÷ 1.0135). Therefore, the Commission concludes that the proper level of depreciation expense before annualization is $583,073 ($593,009 - $6,655 - $3,281).

The next area of disagreement is taxes other than income. The net difference of $1,334 arises from adjustments made by each witness to FICA taxes, gross receipts taxes, and property taxes. Witness Campbell proposed increasing FICA tax expense by $3,517 for the FICA taxes associated with his pro forma increase in test period wages. Witness Bright made a similar adjustment of $1,290 for the FICA taxes which would be associated with the pro forma wage adjustment which she recommended. The Commission concludes that having adopted the pro forma wage adjustment as proposed by Ms. Bright it would also be proper to include the increase of $1,290 in FICA taxes proposed by Ms. Bright.

Each of the witnesses also made an adjustment increasing gross receipts tax to include the appropriate amount of tax on his operating revenue adjustments. Witness Campbell increased gross receipts tax by $2,526 and Witness Bright proposed an increase of $4,549. Consistent with its conclusions that Ms. Bright's adjustments to revenue were proper, the Commission now concludes that Ms. Bright's adjustment increasing the book gross receipts tax expense by $4,549 is appropriate. In this manner, the proper amount of tax will be matched with the revenues found proper by this Commission.

The last difference of $1,130 ($100,714 - $99,584) is found in the amounts proposed by the witnesses as property tax expense. Company Witness Campbell increased property tax expense to the level incurred for the calendar year 1975 of $100,714. Staff Witness Bright testified that, as in the case of depreciation expense and pension expense, the Company had increased property tax expense to an end-of-

period level. She proposed deannualizing this end-of-period level of expense by dividing by 1.01135 since net operating income (including all expenses) would be increased by the annualization adjustment.

Consistent with its decisions on depreciation expense and pension expense, the Commission concludes that the property tax expense proposed by Mr. Campbell is an end-of-period amount and should be deannualized by dividing by 1.01135. The Commission, therefore, concludes that the proper level of property tax expense before annualization is $99,584.

Based on the foregoing discussion, the Commission concludes that the proper level of taxes other than income to be included in the test year is $340,168.

Staff Witness Bright and Company Witness Campbell each calculated the amount to be included as State and Federal income taxes. The amount computed by Company Witness Campbell is $212,353 and the amount computed by Staff Witness Bright is $263,516. The reason for this is that State and Federal income taxes are a function of income before income taxes multiplied by the State and Federal statutory tax rates. Taxable income is determined by deducting from operating revenues the following items: operating revenue deductions, interest cost, and "Schedule M" items for which normalization accounting is not followed. As previously discussed, each witness included a different amount for operating revenues and operating revenue deductions. Therefore, the amounts used by each for taxable income and, hence, the amounts included for State and Federal income tax expense were different. The Commission does not deem it necessary to recapitulate these differences. Since the adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of State and Federal income tax expense. However, there are differences between the two witnesses' computations of Federal and State income taxes which should be discussed, and the Commission will now discuss these items.

In calculating Federal and State taxable income, Company Witness Campbell included interest income and the amortization of the plant acquisition adjustment. Staff Witness Bright did not include either of these items in her calculation of net taxable income. The Commission concludes that these items are nonutility in nature and should not be used in calculating taxable income for rate-making purposes.

Staff Witness Bright testified that the depreciation of $3,850 taken on taxes, insurance, and interest capitalized as book expense should be added back to income in determining book taxable income for purposes of calculating book income tax expense. She explained that the ratepayer received the income tax benefits of these items in the year

in which the expenses were incurred. The Commission concludes that it is proper to add back to income the unallowable depreciation as calculated by Ms. Bright for purposes of calculating taxable income because the ratepayers have received the income tax benefits of these items in previous years.

Another difference of $872 in the calculation of net taxable income is caused by an adjustment made by Staff Witness Bright for pro forma capitalized FICA taxes related to the pro forma increase in wages for the test year. Ms. Bright explained that for income tax purposes the Company deducts all payroll taxes in the year they are incurred, including those capitalized; therefore, the reduction in taxable income should not be limited to the effect of those items charged to expense but should include the effect of the total increase in payroll taxes due to the wage increase. The Commission concludes that the pro forma increase in payroll taxes capitalized should be used as a reduction of taxable income for purposes of calculating Federal and State income tax expense.

The next difference in net taxable income as calculated by the witnesses is caused by the difference in the interest expense each used as a deduction. Company Witness Campbell used actual interest expense and Staff Witness Bright calculated the interest expense which would be incurred on end-of-period debt. Witness Bright testified that she did not use the interest expense allocated to the rate base on Bright Exhibit I, Schedule I, because the Company is capitalizing interest at a gross rate. Interest is being capitalized at a rate which does not recognize the fact that interest expense is deductible in the year incurred for purposes of determining taxable income. By capitalizing interest at a before tax rate, the ratepayer is not given the income tax benefits of interest expense related to debt which finances construction work in progress. If the Commission only included the interest expense associated with plant in service as a deduction for purposes of calculating income tax expense, in future years the ratepayers of Lexington will pay in rates to cover a cost which the Company did not incur. On the other hand, if the Company were using an after tax interest rate to capitalize IDC, it would be proper to use only the interest expense associated with plant in service as a deduction for purposes of calculating State and Federal income tax expense since the Company would then only be including as a cost of plant the actual cost of funds used to build plant today for future customers. The Commission therefore concludes that, since Lexington capitalized interest at a before tax rate during the test period, it is proper to use the total end-of-period interest expense of $453,087 as calculated by Witness Bright as a deduction for purposes of calculating income tax expense.

The last difference in net taxable income as calculated by the witnesses is caused by adjustments which each of the

witnesses made to test period revenues and expenses. The Commission concludes that it would be proper to include the adjustments heretofore found proper.

The witnesses also used different tax rates for computing Federal income taxes. Witness Campbell used a surtax exemption of $11,167 and Witness Bright used a surtax exemption of $6,500. The difference arises because the corporate income tax rate was lowered by Congress for the calendar year 1975. The Commission concludes that, since the change in rates was not a permanent change, the surtax exemption of $6,500 as proposed by Ms. Bright is the appropriate exemption to use.

The Commission concludes that the proper amount of State income taxes is $34,208 and Federal income taxes is $234,007. The following schedule sets forth the State and Federal income tax calculation:

| Line No. | Item | | Amount |
|---|---|---|---|
| 1. | Total operating revenues | | $3,568,403 |
| 2. | Operating revenue deductions: | | |
| 3. | Operating expenses and depreciation | | 2,159,792 |
| 4. | Interest - customer deposits | | 347 |
| 5. | Other operating taxes | | 340,168 |
| 6. | Interest expense | | 453,087 |
| 7. | Total deductions | | 2,953,394 |
| 8. | Net operating income | | 615,009 |
| 9. | Add: Depreciation on items capitalized | | 3,850 |
| 10. | Deduct: Payroll taxes and insurance capitalized | $10,352 | |
| 11. | Pro forma capitalized PICA taxes | 872 | |
| 12. | Cost of removal | 37,498 | (48,722) |
| 13. | State taxable income (L8 - L12) | | 570,137 |
| 14. | State income tax rate | | 6% |
| 15. | State income taxes (L13 x L14) | | 34,208 |
| 16. | Preferred dividends | | (860) |
| 17. | Federal taxable income (L13 - L15 - L16) | | 535,069 |
| 18. | Federal income taxes (L17 x 48% - $6,500) | | 250,333 |
| 19. | Amortization of investment tax credit | | 16,326 |
| 20. | Federal income taxes (L18 - L19) | | $ 234,007 |

Both witnesses included interest on customer deposits as an operating expense. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the Company will recover only its cost of these customer supplied funds.

Based on all the testimony and evidence presented in this case and discussed above, the Commission concludes that the

proper level of total operating revenue deductions is $2,768,522.

In making its decisions concerning revenues and expenses, the Commission also considered evidence presented by the Attorney General in the form of cross-examination exhibits used with Company witnesses. The Attorney General presented a cross-examination exhibit of Company Witness Campbell which showed the unadjusted net operating income of the Company for the months September 1975 through March 1976. The Attorney General proposed annualizing the income of the Company for these 7 months and determining an annual net operating income for consideration in this proceeding. The Commission has found that the test year for purposes of this hearing to be the 12 months ending August 31, 1975, and can find no merit in using the figures for net operating income as presented by the Attorney General. While the Attorney General's cross-examination exhibit recognized increases in revenues and expenses past the end of the test period, he did not recognize any increases in the plant balances or capital account balances since the end of the test period. G.S. 62-133(c) states as follows:

> "(c) The public utility's property and its fair value shall be determined as of the end of the test period used in the hearing and the probable future revenues and expenses shall be based on the plant and equipment in operation at that time...."

If the Commission accepted the Attorney General's method of determining net income, the Commission would be violating G.S. 62-133(c) because the probable future revenues and expenses would not be based on Lexington's plant at the end of the test year as required by G.S. 62-133(c). Additional plant added since the end of the test period has generated the additional revenues and expenses recognized by the Attorney General, but he has not recognized this additional plant or the additional capital required to finance this plant in any of his exhibits.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company Witness Campbell recommended an adjustment factor of 1.122% to raise the actual income for the test period to a going level as of the end of the test period. Staff Witness Bright recommended an adjustment factor of 1.135% based on the increase of end-of-period primary stations over average primary stations during the test period. Witness Campbell agreed under cross-examination that Ms. Bright's adjustment factor was in fact correct.

Based on the testimony and evidence presented, the Commission concludes that the annualization factor should be based on primary stations. The Commission therefore concludes that the annualization factor of 1.135% as calculated by Staff Witness Bright is proper.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-18

The Commission adopts the Company's capital structure of August 31, 1975, as presented by Staff Witness Bright. This capital structure reflects book common equity of $3,257,700.

The fair value capital structure adopted herein represents a capital structure in which the fair value increment of $876,602 has been added to the equity component of the original cost net investment. This capital structure showing the fair value equity of the Company is reasonable and is adopted by the Commission to determine the cost of the Company's fair value equity.

The Company testified that its test year embedded cost rates for long-term debt and preferred stock were 7.94% and 6.18%, respectively. The Commission finds and concludes that the debt embedded cost rate is 7.94% and the preferred stock embedded cost rate is 6.18%.

The Company sought a rate of return of 14.393% on book common equity. Company Witness Harris attempted to justify that return with a comparison of the rates of return granted to other telephone companies.

Staff Witness Currin testified that, in his best judgment, the cost of book equity capital to Lexington is 13.75% to 14.50%. Since Lexington's equity is not traded in the major capital markets, conventional quantitative techniques could not be used. Instead, Witness Currin used a qualitative evaluation of the risk differential between Lexington and the larger telephone utilities, Central, Carolina, and Western-Westco to determine a risk premium to be added to the market returns of the larger, less risky telephone utilities.

Although the Attorney General did not offer a rate of return witness in this hearing, he did offer four cross-examination exhibits for Company Witness Campbell. Three of these exhibits purported to be related to the consideration of rate of return for the Company. Unfortunately, there are numerous errors in these exhibits. A brief description follows.

The Attorney General did not include, in any of his calculations, the adjustments found appropriate by the Staff accounting witness. Accordingly, his calculations are not based on the correct revenues, expenses, or capital structure.

In Campbell Cross-Examination Exhibit No. 2, line a, there was no prior evidence showing the sum of Investment Tax Credit and Fair Value Component to be $855,094. Therefore, there is no basis for the associated percentage.

In Campbell Cross-Examination Exhibit No. 2, line b, the correct Common Equity component is $3,257,700, not

$3,061,546. Therefore, the associated percentage is incorrect.

In Campbell Cross-Examination Exhibit No. 2, line c, there is calculated a return on common stock. Such a "return" ignores completely the Company's retained earnings, which are universally recognized as part of the Common Equity component of the capital structure.

In Campbell Cross-Examination Exhibit No. 3, there is used an incorrect embedded cost of debt. The correct percentage is 7.940%. The resulting total capital cost from his exhibit should be 8.878%. Also, the Attorney General offered no prior evidence supporting a 12.75% return on fair value equity. However, the Attorney General's exhibits reflect an overall capital cost, which, adjusted for the error in the embedded cost of debt and multiplied times his total investment of $11,369,001, results in more dollars for the Company than does Staff Witness Currin's maximum weighted cost of capital (9.24%) times the associated total investment ($10,909,377).

In Campbell Cross-Examination Exhibit No. 4, section A, there is multiplied the above mentioned unsupported, and incorrect, overall rate of return times an improperly determined fair value rate base (as discussed in the accounting sections of this Order). These errors necessarily invalidate lines 3 through 7 which are based on that initial calculation.

In Campbell Cross-Examination Exhibit No. 4, line 6(a), the fair value component of $459,634 results from the prior incorrect calculation of the fair value rate base. Therefore, the associated percentage is incorrect.

In Campbell Cross-Examination Exhibit No. 4, line 6(b), the correct Common Equity component is $3,257,700, not $3,061,546. Therefore, the associated percentage is incorrect.

In Campbell Cross-Examination Exhibit No. 4, line 6(c), there is calculated a return on common stock. As indicated above, such a "return" ignores completely the Company's retained earnings, which are universally recognized as part of the Common Equity component of the capital structure.

As outlined above, there are numerous errors in the Attorney General's exhibits relating to rate of return. These errors are of such magnitude and of such a basic nature that this Commission is unable to give significant weight to these exhibits in its determination of the rate of return of Lexington Telephone Company.

The Commission should also take into account the Company's fair value increment of $876,602 and the effect of adding this increment to the equity component of the original cost net investment of the Company's capital structure. In so

doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel. Utilities, et al. v. Duke Power Co., 285 N.C. 377 (1974), wherein it is stated:

> "...the capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration in its findings on rate of return the reduction in risk to Lexington's equity holders and the protection against inflation which is afforded by the addition of the $876,602 fair value increment to the book equity component. Considering the current investment market and Lexington's expansion and upgrading of service to its ratepayers, the Commission concludes that a rate of return of 10.67% on fair value equity, including both book equity and the fair value increment, is fair and reasonable. An 8.30% rate of return on the fair value rate base will service the cost rates of 7.94% on debt, 6.18% on preferred stock, and provide a 10.67% return on fair value equity. The actual dollar return yielded by the rate of return of 10.67% on the fair value equity will yield a rate of return of 13.76% on book common equity.

The Commission has considered the tests laid down by G.S. 62-133(b)(4) and concludes that the rates herein allowed should enable the Company to attract sufficient debt and

equity capital in order to discharge its obligations and achieve and maintain a high level of service to the public. The Commission cannot, of course, guarantee that the Company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the Company will be able to reach that level of return through efficient management.

The following schedules show the derivation and application of the findings and evidence and conclusions hereinabove and are to be incorporated therein:

SCHEDULE I
LEXINGTON TELEPHONE COMPANY
DOCKET NO. P-31, SUB 100
STATEMENT OF RETURN
TWELVE MONTHS ENDED AUGUST 31, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $1,845,538 | $233,019 | $2,078,557 |
| Toll service | 1,599,383 | | 1,599,383 |
| Miscellaneous | 145,311 | | 145,311 |
| Uncollectibles | (21,829) | (1,434) | (23,263) |
| Total operating revenues | 3,568,403 | 231,585 | 3,799,988 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 570,348 | | 570,348 |
| Traffic expenses | 364,801 | | 364,801 |
| Commercial expenses | 158,791 | | 158,791 |
| General office salaries and expenses | 275,818 | | 275,818 |
| Other operating expenses | 206,961 | | 206,961 |
| Total operating expenses | 1,576,719 | | 1,576,719 |
| Depreciation and amortization | 583,073 | | 583,073 |
| Taxes other than income | 340,168 | 13,895 | 354,063 |
| Income taxes - state and federal | 268,215 | 111,283 | 379,498 |
| Interest on customer deposits | 347 | | 347 |
| Total operating revenue deductions | 2,768,522 | 125,178 | 2,893,700 |
| Net Operating Revenues | 799,881 | 106,407 | 906,288 |
| Add: Annualization adjustment - 1.135% | 9,079 | | 9,079 |
| Net operating income for return | $ 808,960 | $106,407 | $ 915,367 |

| | | | |
|---|---|---|---|
| Investment in Telephone Plant | | | |
| Telephone plant in service | $13,698,475 | | $13,698,475 |
| Less: Accumulated depreciation | 3,552,179 | | 3,552,179 |
| Excess plant | 162,664 | | 162,664 |
| Net investment in telephone plant in service | 9,983,632 | | 9,983,632 |
| Allowance for Working Capital | | | |
| | 90,220 | | 90,220 |
| Cash | 132,914 | | 132,914 |
| Average prepayments | 36,820 | | 36,820 |
| Less: Average operating tax accruals | 85,895 | | 85,895 |
| Customer deposits (end-of-period) | 5,780 | | 5,780 |
| Total Allowance for working Capital | 168,279 | | 168,279 |
| Net investment in telephone plant in service plus allowance for working capital | $10,151,911 | | $10,151,911 |
| Fair value rate base | $11,028,513 | | $11,028,513 |
| Rate of return on fair value rate base | 7.34% | | 8.30% |

SCHEDULE II
LEXINGTON TELEPHONE COMPANY
DOCKET NO. P-31, SUB 100
TWELVE MONTHS ENDED AUGUST 31, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Capitalization | | | | |
| Total debt | $ 5,330,768 | 48.34 | 7.94 | $423,263 |
| Preferred stock | 1,215,184 | 11.02 | 6.18 | 75,098 |
| Common equity | | | | |
| Book $3,031,361 | | | | |
| Fair Value Increment 876,602 | 3,907,963 | 35.43 | 7.95 | 310,599 |
| Cost-free capital | 574,598 | 5.21 | | |
| Total | $11,028,513 | 100.00 | | $808,960 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $5,330,768 | 48.34 | 7.94 | $423,263 |
| Preferred stock | 1,215,184 | 11.02 | 6.18 | 75,098 |
| Common equity | | | | |
| Book $3,031,361 | | | | |
| Fair Value Increment 876,602 | 3,907,963 | 35.43 | 10.67 | 417,006 |
| Cost-free capital | 574,598 | 5.21 | | |
| Total | $11,028,513 | 100.00 | | $915,367 |

The Commission concludes that Lexington should be allowed an increase in additional annual gross revenues not exceeding $233,019 in order for it to have an opportunity through efficient management to earn the 8.30% rate of return on the fair value of its property used and useful in serving its customers. This increased revenue requirement is based upon the fair value of its property and reasonable test year operating revenues and expenses as heretofore determined.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19 AND 20

Mr. William C. Harris, President of Lexington Telephone Company, testified regarding the Company's rate proposals to produce $461,141 in additional annual revenue based on the number of units in service at August 31, 1975. Mr. Harris explained that Applicant was requesting an increase in local calling from coin telephones from 10¢ to 20¢ to make this charge more cost related; to increase nonrecurring charges to put into effect the same basic charges that have been approved for other telephone companies and to bring them more in line for the services actually performed; to increase local private line mileage from 75¢ to $1.00 per 1/4 route mile; to increase recurring rates and charges for service and equipment making reference to Harris Exhibit No. 2 covering all proposed changes in rates and charges which included the elimination of rural zone charges.

In supplemental testimony Mr. Harris testified that a charge for directory assistance can have a significant effect on call volumes with virtually no effect on customer service and concluded that those customers who need or want to call directory assistance more frequently should pay for their excessive usage of this service. He recommends that the so-called Southern Bell plan as modified for Central Telephone Company be authorized for Lexington.

Mr. Vern Chase, Chief Engineer of the Commission's Telephone Rate Section, testified that the proposed rate design of Applicant follows closely the design used by the Commission in recent decisions and found no substantial area of disagreement with the Company's design should the Commission allow the Company additional revenue. He stated that he favored the approval of a directory assistance charge plan for Applicant like the one approved for Southern Bell. Further, that presently, the costs of directory assistance are being paid by all of the Applicant's subscribers in local rates with those using the service excessively paying the same as those who do not use the service. He called attention to businesses using the service for credit and check cashing information, a service not intended to be rendered by directory service.

Based on the foregoing testimony and exhibits in support thereof, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Lexington Telephone Company:

1. Basic Rate Schedule

   (a) The Commission concludes that the present rate schedule should be revised to increase the ratio between business and residential one-party service to a ratio of approximately 2.5 to 1, a level which the Commission, in its discretion, believes to be just and reasonable

as heretofore approved for other telephone companies in this State.

(b) The Commission concludes that rates for PBX trunks should bear approximately a 2 to 1 ratio with one-party business rates so as to more nearly reflect relative value of service and relative costs.

2. Coin Telephone Service

The Commission concludes that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been numerous increases in the cost of providing this service and that the charge has not been increased for over 20 years.

3. Service Charges

The Commission concludes that there is a need to increase service charges to a level that more closely approximates the level of costs involved in doing the work.

4. Directory Assistance Charges

Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific services used. A large number of calls are made for information that is readily available. This practice places a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to maintain telephone service. An estimated reduction of approximately 60% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that an allowance of five (5) free calls monthly will adequately provide for the reasonable needs of nearly all subscribers for numbers not otherwise available and that a charge of 20¢ for each local directory assistance request in excess of five (5) calls monthly per subscriber should be approved. The Commission further concludes

that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home numbering area. The Commission is of the opinion that a 60% reduction in local directory assistance calling may reasonably be expected. This would result in an annual expense decrease of $4,133 and increased revenues of $5,705 when taking into consideration the modified Operator Assistance Agreement.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from D.A. charges. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year or until sufficient information is gathered from other sources. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Lexington Telephone Company, be, and hereby is, authorized to increase its North Carolina local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $233,019 based upon stations and operations as of August 31, 1975, as hereinafter set forth in Appendices "A" and "B."

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendices "A" and "B" attached hereto, which will produce additional gross revenues of approximately $233,019 from said end of test period customers, be, and hereby are, approved to be charged and implemented by Lexington, effective on service to be rendered on and after the date of this Order, except as noted herein.

3. That Lexington shall file, within seven days of this Order, the necessary revised tariffs reflecting the above increases, decreases and regulations, said tariffs to be effective as of the date prescribed above.

4. That Lexington is authorized to begin directory assistance charges in accordance with Appendix "A" attached

to this Order after October 1, 1976, and after the NOTICE attached as Appendix "B" is given to its subscribers. That Lexington shall, before September 15, 1976, mail as a bill insert or direct mailing the NOTICE attached as Appendix "B" to all subscribers and shall, commencing October 1, 1976, mail as a bill insert the REMINDER attached as Appendix "B" to all subscribers. Should the Company be unable to initiate directory assistance charges on October 1, 1976, it is to so advise the Commission and to make appropriate changes in the dates in the NOTICE, the REMINDER and the mailing dates prescribed above.

Further, that Lexington shall place the directory information included in Appendix "B" relating to directory assistance charges in its telephone directories.

5. That Lexington shall offer an option to residential applicants or subscribers to allow them to pay for service charges (installation, moves, changes, etc.), where the total exceeds $15.00, in two equal payments over the first two billing periods after such service work is completed, unless the subscriber is a known credit risk to the Company, and that Lexington shall include this provision in its tariff filings as heretofore approved for other telephone companies.

6. That Lexington Telephone Company shall file monthly reports on the conversion of coin pay stations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of August, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
LEXINGTON TELEPHONE COMPANY
DOCKET NO. P-31, SUB 100

MONTHLY EXCHANGE RATE

| Residence | | | Business | | |
|---|---|---|---|---|---|
| 1 Pty | 2 Pty | 4 Pty | 1 Pty | 2 Pty | 4 Pty |
| $6.35 | $5.55 | $4.90 | $15.90 | $13.90 | $10.95 |

See official file for complete Appendices A and B.

DOCKET NO. P-61, SUB 54

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| Application of Randolph Telephone Company for Authority to Increase its Rates and Charges in its Service Area | ) RECOMMENDED ORDER ) GRANTING PARTIAL ) INCREASE IN RATES ) AND CHARGES |

HEARD IN: Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina 27602, on Tuesday, August 31, 1976

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; and Commissioners Barbara A. Simpson and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, and Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991 Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission on the application of Randolph Telephone Company (hereinafter Randolph, the Company, or Applicant) filed on May 1, 1976, for authority to increase its rates and charges for telephone service. On that date, Randolph also filed with the application information and data required by the Commission Rules and Regulations. Randolph requested that the Commission authorize the proposed increase effective June 1, 1976.

By Order issued May 10, 1976, the Commission denied Randolph's request to implement the proposed rates effective June 1, 1976, and suspended the proposed increase until further Order of the Commission. In the Order the Commission set the matter for public hearing to begin August 31, 1976, in the Commission Hearing Room, One West Morgan Street, Ruffin Building, Raleigh, North Carolina. The Commission declared the application to be a general rate case under G.S. 62-137 and required that Randolph, at its own expense, publish in newspapers the Notice of Hearing attached to the Commission's Order and, in addition, mail by bill insert the same Notice of Hearing to all of its customers. The Notice set forth the proposed increase,

reflected the beginning date of public hearing, and informed members of the public of the manner by which comments or testimony could be received at the public hearing. The Order also set forth certain additional information requirements by the Commission.

No petitions for interventions were filed.

The public hearing on Randolph's application began August 31, 1976, as scheduled. Randolph offered the testimony of William M. Fitzgerald, President and General Manager of Randolph. He indicated that Randolph's last increase in rates and charges was made effective June 1, 1971. He further described what changes had taken place since the last rate case with respect to Randolph's plant investment and financial requirements in regard thereto. He outlined Randolph's capital structure and the cost of servicing Randolph's debt. He also testified as to Randolph's reasons for installing additional lines and terminal equipment in 1973 and 1974.

Randolph also presented the testimony of Alan Martin, Treasurer and Assistant Manager for the Company, who testified with respect to various accounting adjustments proposed by the Company and the accounts as reflected on the Company's books. He outlined the proposed increases and certain changes in the various classifications of rates. He further testified as to the Company's rate of return if the proposed increases were allowed.

The Commission Staff offered the testimony of the following witnesses: Vern W. Chase, Chief Engineer, Telephone Rate Section, testified regarding the proposed rate design and directory assistance charges; James Compton, Engineer, Telephone Service Section, testified on Randolph's plant and equipment and quality of service and reviewed the addition of 600 lines and terminals at Randolph in 1973 and 1974; Linda Chappell, Accountant for the Staff, testified with respect to the Staff's Audit of Randolph's books and records and presented recommendations with respect to various accounting adjustments; and Henry Randolph Currin, Jr., Senior Operations Analyst in the Staff's Operations Analysis Section, testified regarding his review of the Company's application and his recommendations with respect to Randolph's cost of capital and rate of return.

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

## FINDINGS OF FACT

1. Randolph Telephone Company is a duly franchised public utility providing telephone service to its subscribers and is a duly created and existing corporation authorized to do business in North Carolina and is lawfully before the Commission in this proceeding for a determination as to the justness and reasonableness of its rates and

charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. The total increases in rates and charges under Randolph's application would have produced approximately $63,229 in additional annual gross revenues.

3. Randolph's present rates were established by Order of the Commission on May 28, 1969, in Docket No. P-61, Sub 42.

4. The test period used in this proceeding for the purpose of establishing rates as required by the Commission is the 12-month period ended December 31, 1975.

5. The overall quality of service provided by Randolph Telephone Company is adequate.

6. The Company had excess plant investment consisting of 200 lines and terminals at the end of the test period, amounting to $19,601, which was not used and useful in rendering telephone service.

7. The original cost submitted by Randolph of its plant used and useful in providing telephone service in North Carolina is $2,234,876. From this amount should be deducted a reasonable accumulated provision for depreciation of $670,924 and excess net plant investment of $17,855, resulting in a reasonable original cost of plant in service less depreciation of $1,546,097.

8. Randolph's investment in Rural Telephone Bank Class B stock less patronage dividends should be included in the original cost net investment.

9. The reasonable allowance for working capital is $56,470.

10. The only evidence of fair value in this proceeding is the original cost of the Company's plant used and useful in providing telephone service in North Carolina. The Commission acquiesces therein, Utilities Comm. v. Telegraph Co., 281 N.C. 318, at 360. The fair value of the Company's property used and useful in providing telephone service is $1,615,917, which includes $1,546,097 in net original cost plant, $13,350 in Rural Telephone Bank Class B stock, and $56,470 in working capital.

11. The approximate gross revenues net of uncollectibles for Randolph for the test period are $403,853 under present rates and under Company proposed rates would have been $466,456 before annualization to year-end level.

12. The level of Randolph's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $340,907, which includes an amount of $89,637 for actual investment

currently consumed through reasonable actual depreciation, before annualization to year-end level.

13. The proper annualization factor necessary to restate income after accounting and pro forma adjustments to end-of-period level as required by G.S. 62-133 is 1.134%.

14. Randolph's capital structure at December 31, 1975, reflecting original cost common equity is as follows:

| | Percent |
|---|---|
| Total debt | 81.04% |
| Common equity | 18.33% |
| Cost-free capital | .63% |
| | 100.00% |

15. The Company's original cost equity ratio is 18.33%.

16. The Company's proper embedded cost of long-term debt is 2.56%. The cost of equity which should be applied to the Company's common equity is 15.50%. The costs of debt and equity result in a total cost of capital of 4.92% to Randolph.

17. Randolph's current rates are insufficient to allow the Company an opportunity to earn 4.92%. Therefore, Randolph should be allowed an increase in additional annual gross revenues not exceeding $34,678 in order for it to have an opportunity through efficient management to earn the 4.92% rate of return on the fair value of its property used and useful in serving its customers. This increased revenue requirement is based upon the original cost of its property and reasonable test year operating revenues and expenses heretofore determined.

18. The schedule of rates and charges as set forth in Appendix "A" attached to this Order is found to be just and reasonable.

Furthermore, charging for directory assistance is an appropriate means of relieving those subscribers who do not use directory assistance excessively of the cost of said service and requiring those who use the service excessively to pay in accordance with the service used.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

The evidence for Findings of Fact Nos. 1-4 comes from the verified application of the Company, the testimony and exhibits of the Company's witnesses, and the official file in this docket. These findings are jurisdictional and were not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence as to the quality of telephone service provided by Randolph consists of the testimony of Mr. Fitzgerald and Mr. Compton.

Mr. Fitzgerald testified that the Company's service is about as up-to-date and modern as the service of any telephone system in North Carolina. The Company has a complete, modern direct dial system. The Company also has a sufficient number of qualified personnel. Mr. Fitzgerald stated that at the present time the Company has no held orders for new service more than 14 days old and has no held orders for regrades. The Company is well within the Commission's objectives of not more than six trouble reports per 100 stations.

Mr. Compton testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by Randolph Telephone Company. He testified that the Staff's evaluation was based on the results of field tests conducted on two separate occasions. The witness testified that the Staff's evaluation consisted of call completion tests, transmission and noise measurements, pay station tests, operator answer time tests, and an analysis of customer trouble reports, service orders, and subscriber held orders. Based on the results of the Staff's investigation, the witness concluded that the Company, overall, was meeting the service objectives established by the Commission. The service objectives have been established in prior Commission Orders and represent the minimum levels of adequate service.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Randolph Telephone Company is adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence on the amount of excess plant investment of Randolph Telephone Company consists of the testimony of Mr. Compton, Mr. Fitzgerald, and Mr. Martin.

Mr. Compton testified that, on the basis of his investigation and evaluation of the Company's plant investment, the 600 lines and terminals which the Company added in May 1974 represented excess plant not used and useful in providing telephone service. He determined that the value of this 600-line and terminal addition was $58,805.16.

Mr. Fitzgerald testified that the Company decided to add the 600 lines and terminals in 1974 because the Company expected an additional growth of 300 main stations over an 18-month period. The normal growth of the Company is about 100 main stations per year. He further testified that it

takes from 12 to 24 months to order new equipment and have it installed.

Based on the evidence of record in this proceeding, including the cross-examination and rebuttal testimony, the Commission finds and concludes that the Company's plant investment should be adjusted by $19,601 to reflect an excess plant margin of 200 lines and terminals. In so deciding, the Commission takes into account the following: In 1974 the Company was faced with a prospect of unusual growth of main stations during an 18-month period. The Company placed an order for 600 lines and terminals based on this prospect of unusual growth. Due to certain factors, some of which were unavoidable, this growth did not materialize. The Commission is of the opinion that the Company should not be penalized for the entire 600 lines and terminals which were added in 1974, especially where there was evidence that the Company made the additions in good faith. However, there was also evidence that the Company did not have to purchase the 600 lines and terminals at one time but could have deferred the purchase of 200 lines and terminals until after the end of the test period. Accordingly, the Commission makes this adjustment based on 200 excess lines and terminals.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The Commission will now analyze the testimony and exhibits presented by Company Witness Martin and Staff Witness Chappell concerning the original cost of Randolph's telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for the item:

| Item | Company Witness Martin | Staff Witness Chappell |
|---|---|---|
| Investment in telephone plant in service | $2,234,876 | $2,176,071 |
| Less: Accumulated provision for depreciation | 666,470 | 665,685 |
| Net investment in telephone plant in service | $1,568,406 | $1,510,386 |

As can be seen, the witnesses disagree as to the appropriate level of plant in service. Witness Martin used the total plant in service recorded on the books at the end of the test year. Witness Chappell used the total plant in service recorded on the books at the end of the test year of $2,234,876, less the cost of the 600 lines and terminals in the amount of $58,805 which Witness Compton testified were excess plant.

Both witnesses agree that accumulated provision for depreciation should be included as a deduction in

calculating the net investment in telephone plant in service. The witnesses do not agree, however, on the proper amount of the deduction. Staff Witness Chappell's accumulated depreciation of $665,685 represents the year-end balance per books of $666,470, less $5,239 depreciation reserve relating to Witness Compton's proposed excess plant adjustment, plus $4,454 which increases the reserve to an end-of-period level following the increase of actual depreciation expense to an end-of-period level. Witness Martin made the $4,454 adjustment to depreciation expense but did not make the corresponding adjustment to the reserve account. Ms. Chappell testified that, since the ratepayers are being asked to pay in rates to cover an additional $4,454 in depreciation expense as if plant in service at the end of the test year had been in service the entire test period, the depreciation reserve should also be increased as if the plant had been in service the entire test period.

The Commission concludes that it would be inconsistent to allow the Company to increase its depreciation expense to reflect the end-of-period level and not make the corollary adjustment to the accumulated provision for depreciation. Consequently, the Commission concludes that the adjustment made by Staff Witness Chappell to increase depreciation reserve by $4,454 is reasonable. The Commission also concludes that the methodology used by Witness Chappell in eliminating depreciation reserve on excess plant is proper. However, in Finding of Fact No. 6, the Commission determined that Randolph has excess plant in service in the amount of $19,601 because 200 of the 600-line and terminal addition cannot be considered used and useful. The depreciation reserve applicable to the excess 200 lines and terminals would be $1,746. Therefore, the Commission concludes that the reasonable net original cost of Randolph's telephone plant in service is $1,546,097 consisting of total investment in telephone plant in service of $2,234,876 less accumulated depreciation of $670,924 and net excess plant capacity of $17,855 ($19,601 - $1,746).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Staff Witness Chappell proposed that Randolph's investment in Rural Telephone Bank (RTB) Class B stock of $13,350 be included in the original cost net investment. Witness Martin did not include this item in his determination of the original cost net investment. Witness Chappell testified that all companies borrowing from the RTB are required to purchase RTB Class B stock equal to 5% of the original loan amount requested. Witness Chappell testified that the mandatory purchase of RTB Class B stock increases the long-term debt outstanding and therefore increases actual interest expense. Witness Chappell further stated that the Class B stock is not subject to cash dividends. However, RTB Class B stock does receive patronage stock dividends which have no present value, and their future value is highly questionable. Witness Chappell testified that unless Randolph's investment in RTB Class B stock is included in

the original cost net investment the Company would not be granted rates to cover its entire cost of providing telephone service, since its actual interest expense would be understated.

The Commission concludes that it is proper to include Randolph's investment in RTB Class B stock, exclusive of patronage dividends, in the original cost net investment. Randolph must pay interest expense on the entire amount it borrows from the RTB, which includes an amount for the mandatory purchase of RTB Class B stock. The interest expense on the amount of the loan represented by the purchase of RTB Class B stock is a necessary cost of providing telephone service. If the Company's investment in RTB Class B stock is not included in the original cost net investment, the Company will not be allowed to recover its full cost of providing telephone service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Staff Witness Chappell and Company Witness Martin each presented a different amount for the working capital allowance.

Company Witness Martin used as the total working capital allowance $50,890 consisting of the average balance of materials and supplies, cash equal to 1/12 of operating expenses, exclusive of taxes and depreciation, less average tax accruals and customer deposits.

Staff Witness Chappell presented a working capital allowance of $56,470 consisting of average materials and supplies, a cash allowance of 1/12 of operating expenses, excluding depreciation and taxes, and average prepayments, less average tax accruals and end-of-period customer deposits.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Chappell should be used in this case. The allowance for working capital should be determined by adding average materials and supplies, cash equal to 1/12 of operating expenses, excluding depreciation and taxes, and average prepayments, less average tax accruals and end-of-period customer deposits. Using this method for calculation, the Commission concludes that a reasonable allowance for working capital is $56,470.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

In Utilities Commission v. Telephone Co., 281 N.C. 318, at 360, the Supreme Court recognized that proof of "replacement cost" is exceedingly costly and may be unduly burdensome to a small utility company. Consequently, the utility, with the Commission's acquiescence, may offer evidence of

original cost less depreciation as its only evidence of "fair value."

In this proceeding the only evidence of fair value offered by Randolph Telephone Company is evidence of original cost. The Commission acquiesces in such proof. The Commission finds and concludes that the fair value of the Company's property used and useful in providing telephone service is $1,615,917, which includes $1,546,097 in net original cost plant, $13,350 in Rural Telephone Bank Class B stock, and $56,470 in working capital.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company Witness Martin and Staff Witness Chappell presented testimony concerning the appropriate level of operating revenues.

The following chart shows the amount contended for by each witness:

| Item | Company Witness Martin | Staff Witness Chappell |
|---|---|---|
| Local Service Revenues | $223,558 | $227,520 |
| Toll Service Revenues | 157,363 | 159,140 |
| Miscellaneous Revenues | 21,230 | 21,230 |
| Uncollectibles | (5,690) | (4,037) |
| Total operating revenues | $396,461 | $403,853 |

A difference of $7,392 in the amounts presented by the witnesses as operating revenues is reflected in adjustments made by Witness Chappell to Subscriber Station Revenues, Interstate Toll Revenues, and Uncollectible Revenues.

The first item causing the difference in the amounts proposed for operating revenues is an adjustment of $3,962 made by Witness Chappell increasing Subscriber Station Revenues. Witness Chappell testified that she made an adjustment to bring Subscriber Station Revenues to an end-of-period level by determining the annualized December 1975 Subscriber Station Revenues. Witness Chappell testified further that application of the annualization factor to test period Subscriber Station Revenues would understate the calculated end-of-period level of Subscriber Station Revenues due to the decrease in stations and Subscriber Station Revenues in the first months of the test year. She also testified that since net operating income will be multiplied by the annualization factor, she computed her adjustment to increase Subscriber Station Revenues by dividing the December annualized revenues by the annualization factor and subtracting the Company's adjusted level of Subscriber Station Revenues.

Based on the evidence presented by the witnesses, the Commission concludes that the calculation of the end-of-period level of Subscriber Station Revenues using the annualized December 1975 revenues is proper. It is the Commission's conclusion that Witness Chappell's method of calculating the end-of-period level of Subscriber Station Revenues is appropriate because both Subscriber Station Revenues and the number of stations decreased in the first months of the test year but steadily increased during the last several months of the test year. Application of the annualization factor to an unrepresentative level of actual test period Subscriber Station Revenues would result in an unrepresentative end-of-period level of Subscriber Station Revenues. Based on the evidence presented in this proceeding, the method of computing end-of-period Subscriber Station Revenues by multiplying the December 1975 Subscriber Station Revenues by 12 results in a more representative end-of-period level of Subscriber Station Revenues than the method of increasing actual test period Subscriber Station Revenues by the percentage increase in primary stations which occurred during the test period.

The next item of difference is an adjustment made by Witness Chappell increasing Toll Service Revenues to reflect the annual revenue increase associated with an interstate toll rate increase effective February 1976. Witness Chappell testified that an annual revenue increase of $1,777 would result from the interstate toll rate increase.

Based on the evidence presented by the witnesses, the Commission concludes that it is proper to recognize the annual revenue increase associated with the interstate toll rate increase effective February 1976. If the annual revenue increase associated with the interstate toll rate increase is not recognized, toll revenues would not be reflected at their proper end-of-period level. Randolph is presently receiving revenues from the interstate toll rate increase, and these increased revenues should be taken into consideration when determining Randolph's additional revenue requirements in this proceeding.

The next item of difference between the witnesses relating to the amounts included in test period operating revenues is an adjustment made by Witness Chappell decreasing Uncollectible Revenues by $1,710. Witness Chappell testified that the Company's test period level of Uncollectible Revenues was directly affected by the test period Accounts Receivable write-offs. Ms. Chappell further testified that the write-offs during the test period were abnormally high which caused Uncollectible Revenues to be abnormally high. She also stated that the adjustment was necessary to exclude out of test period account write-offs and to include only write-offs applicable to test period revenues.

The Commission concludes that Witness Chappell's proposed adjustment decreasing Uncollectible Revenues by $1,710 is

proper and necessary to reflect an appropriate end-of-period level of Uncollectible Revenues.

The remaining difference of $57 in the amounts proposed by the witnesses for operating revenues is the amount of Uncollectible Revenues relating to the adjustments proposed by Staff Witness Chappell to Subscriber Station Revenues and Interstate Toll Revenues. Since the Commission has accepted Witness Chappell's adjustments to Subscriber Station Revenues and Interstate Toll Revenues, the Commission also accepts the additional $57 adjustment to increase Uncollectible Revenues and, therefore, concludes that the proper level of test year operating revenues is $403,853 (before application of the annualization factor).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company Witness Martin and Staff Witness Chappell presented testimony and exhibits showing the level of operating revenue deductions which they believed should be used by the Commission for the purpose of fixing Randolph Telephone Company's rates in this proceeding.

The following chart shows the amount contended for by each witness:

| | Company Witness Martin | Staff Witness Chappell |
|---|---|---|
| Operating expenses | $201,925 | $198,001 |
| Depreciation and amortization | 91,437 | 88,086 |
| Taxes - other than income | 40,255 | 40,887 |
| Income taxes - State and Federal | 4,375 | 13,473 |
| Interest on customer deposits | 77 | 77 |
| Total operating revenue deductions before annualization | $338,069 | $340,524 |

The first item causing a difference in the amounts proposed for operating expenses by the witnesses is an adjustment proposed by Witness Chappell to increase vacation pay to an end-of-period level. Ms. Chappell testified that the Company failed to recognize the wage increase associated with vacation pay in its payroll adjustment. Ms. Chappell proposed an adjustment increasing vacation pay by $607.

The Commission concludes that the adjustment of $607 to vacation pay before annualization as proposed by Witness Chappell is proper. If the wage rate increase associated with vacation pay is not recognized, then wages expensed will not be reflected at the proper end-of-period level.

Another difference in the amounts included by the witnesses for wage expense is caused by an adjustment made by Staff Witness Chappell increasing wages to correct a calculation error of $100 made by the Company in its payroll

adjustment. The Commission concludes this adjustment is proper.

The next item causing a difference in the amounts proposed for operating expenses is an adjustment of $1,233 made by Staff Witness Chappell to deannualize the Company and Staff adjusted wages expensed. Witness Chappell testified that, since the level of full-time employees remained the same throughout the test year and subsequent to the end of the test year and since the Company adjusted wages to reflect the wage rates in effect at the end of the test year, wages as adjusted by the Company and Staff were on an end-of-period level. Witness Chappell further testified that, because the number of employees was not increasing, it would be improper to apply an annualization factor to the sum of the test period wages expensed plus the adjustment for wage increases occurring during the test year. She also testified that, since net operating income will be multiplied by the annualization factor, the Company's adjusted level of wages should be deannualized by dividing the adjusted end-of-period level of wages by 1.01134.

Based on the evidence presented by the witnesses, the Commission concludes that it would not be proper to apply the annualization factor to the Company's adjusted level of wages. These wages are already stated on an end-of-period level since the number of employees did not increase during the test period. Application of the annualization factor to the Company's adjusted wage level would have been appropriate only if the number of employees had been increasing during the test period; therefore, the Commission concludes that Staff Witness Chappell's adjustment decreasing the Company's adjusted wage level before annualization by $1,233 is proper. The proper level of wages and salaries before annualization is $108,659.

A difference in operating expenses of $3,129 is explained by an adjustment made by Staff Witness Chappell decreasing traffic expenses. Staff Witness Chappell testified that the adjustment to joint traffic expenses was necessary to recognize a decrease in traffic expenses associated with an operator service agreement between Randolph and Southern Bell Telephone and Telegraph Company.

Witness Chappell further testified that in January 1976 Southern Bell implemented a directory assistance charge and similarly passed on its cost savings to Randolph. Witness Chappell stated that the adjustment of $3,129 is the annual cost savings currently being experienced by Randolph.

The Commission concludes that the adjustment to traffic expenses proposed by Staff Witness Chappell is proper and should be recognized to reflect traffic expenses on a normalized end-of-period level.

The remaining difference of $269 in the amounts proposed by the witnesses for operating expenses is caused by an

adjustment made by Staff Witness Chappell eliminating charitable contributions and certain membership dues.

The Commission concludes that the elimination of contributions in the amount of $269 is proper. To include this item would have the effect of requiring the ratepayers to involuntarily make contributions through payment of telephone rates to charitable organizations of the Company's choice.

The witnesses also disagree as to the proper level of depreciation expense before annualization. Company Witness Martin included depreciation expense of $91,437. Witness Martin calculated end-of-period depreciation expense by multiplying the annual depreciation rates times end-of-period plant in service balances.

Staff Witness Chappell made two adjustments to the depreciation expense recommended by Witness Martin. Witness Chappell deducted $2,352 from Witness Martin's depreciation expense for the annual depreciation expense associated with the excess plant adjustment proposed by Staff Witness Compton.

Staff Witness Compton testified that 600 lines and terminals having an original cost of $58,805 were excess plant. If, in fact, this plant were excess and excluded from original cost net investment, it would also be necessary to decrease depreciation expense in the amount of $2,352 ($58,805 x 4%) for that expense associated with the excess plant.

The Commission concludes that it is proper to reduce depreciation expense for that expense associated with excess plant. The Commission concluded in Finding of Fact No. 6 that only 200 of the 600 lines and terminals were excess plant. The original cost of the 200 lines and terminals is $19,601. Only that portion of depreciation expense which relates to the 200 excess lines and terminals would be properly excluded from depreciation expense. The adjustment reducing depreciation expense is $784 ($19,601 x 4%). The depreciation expense after adjusting for depreciation expense on excess plant is $90,653 ($91,437 - $784).

Staff Witness Chappell made one additional adjustment to deannualize depreciation expense after adjusting for depreciation expense on excess plant. Ms. Chappell testified that Witness Martin brought depreciation expense to an end-of-period level by calculating the level of depreciation which would be incurred on the end-of-period plant, an amount of $91,437. She also testified that, since net operating income is multiplied by the annualization factor, the Applicant's end-of-period depreciation expense of $91,437 less the depreciation expense on excess plant of $784 (as stated above) must be divided by 1.01134 to prevent end-of-period depreciation

expense from being overstated. Witness Chappell's deannualization adjustment amounted to $999.

From the evidence presented, the Commission concludes that the level of depreciation expense calculated by Company Witness Martin of $91,437 less depreciation expense on the excess plant of $784 should be deannualized by dividing by 1.01134. Therefore, the Commission concludes that the proper end-of-period depreciation expense before annualization to year-end level is $89,637.

The next area of disagreement is taxes other than income. The net difference of $632 arises from adjustments made by Witness Chappell to FICA taxes and gross receipts taxes. Witness Chappell proposed increasing FICA tax expense by $294 for the FICA taxes associated with the pro forma increase in test period wages. Witness Martin did not make a similar adjustment for the FICA taxes which would be associated with the pro forma wage adjustment which he recommended. The Commission concludes that having adopted the pro forma wage adjustment as proposed by Ms. Chappell it would also be proper to include the increase of $294 in FICA taxes proposed by Ms. Chappell.

Each of the witnesses also made an adjustment increasing gross receipts taxes to include the appropriate amount of taxes on his operating revenue adjustments. Witness Martin increased gross receipts taxes by $396 and Witness Chappell proposed an increase of $734. Consistent with its conclusions that Ms. Chappell's adjustments to revenue were proper, the Commission now concludes that Ms. Chappell's adjustment increasing the book gross receipts tax expense by $734 is appropriate. In this manner, the proper amount of taxes will be matched with the revenues found proper by the Commission.

Based on the foregoing discussion, the Commission concluded that the proper level of taxes other than income to be included in the test year is $40,887.

Staff Witness Chappell and Company Witness Martin each calculated the amount to be included as State and Federal income taxes. The amount computed by Company Witness Martin is $4,375 and the amount computed by Staff Witness Chappell is $13,473. The reason for this is that State and Federal income taxes are a function of income before income taxes multiplied by the State and Federal statutory tax rates. Taxable income is determined by deducting from operating revenues the following items: operating revenue deductions, interest cost, and "Schedule M" items for which normalization accounting is not followed. As previously discussed, each witness included a different amount for operating revenues and operating revenue deductions. Therefore, the amounts used by each for taxable income and, hence, the amounts included for State and Federal income tax expense were different. The Commission does not deem it necessary to recapitulate these differences. Since the

adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of State and Federal income tax expense. However, there are differences between the two witnesses' computations of Federal and State income taxes which should be discussed, and the Commission will now discuss these items.

In determining Federal and State taxable income, Company Witness Martin included interest income. Staff Witness Chappell did not include this item in her calculation of net taxable income. The Commission concludes that this item is nonutility in nature and should not be used in calculating taxable income for rate-making purposes.

The next difference in net taxable income as calculated by the witnesses is caused by the difference in the interest expense each used as a deduction. Company Witness Martin used actual interest expense, and Staff Witness Chappell calculated the deannualized interest expense which would be incurred on that long-term debt which supports original cost net investment on Chappell Exhibit 1, Schedule 1. Witness Chappell testified that it was necessary to deannualize interest expense in the income tax calculation to recognize that net income will be multiplied by the annualization factor as was the case in calculating wage and salary expenses and depreciation expense.

The Commission concludes that Witness Chappell's method of calculating the interest deduction for income tax purposes is proper because interest expense on debt financing assets which are not included in the original cost net investment would not be deductible in computing income taxes for utility operations. It is necessary, however, to recognize that Witness Chappell in Exhibit 1, Schedule 1 recognized as excess plant the 600 lines and terminals as proposed by Staff Witness Compton. The Commission has concluded that 200 lines and terminals were in fact excess and that the original cost net investment is $1,615,917. The long-term debt which supports the original cost net investment of $1,615,917 is $1,309,539 ($1,615,917 x 81.04%). The end-of-period interest expense on $1,309,539 long-term debt is $33,524 ($1,309,539 x 2.56%). This interest expense must then be deannualized or divided by 1.01134 in calculating income tax expense.

The Commission, therefore, concludes that the proper interest expense for calculating income taxes is $33,148 ($33,524 ÷ 1.01134).

The last difference in net taxable income as calculated by the witnesses is caused by adjustments which each of the witnesses made to test period revenues and expenses. The Commission concludes that it would be proper to include the adjustments heretofore found proper.

The witnesses also used different tax rates for computing Federal income taxes. Witness Martin used a surtax exemption of $7,552 and Witness Chappell used a surtax exemption of $6,500. The difference arises because the corporate income tax rate was lowered by Congress for the calendar year 1975. The Commission concludes that, since the change in rates was not a permanent change, the surtax exemption of $6,500 as proposed by Ms. Chappell is the appropriate exemption to use.

The Commission concludes that the proper amount of State income taxes is $2,543 and Federal income taxes is $9,762. The following schedule sets forth the State and Federal income tax calculation:

| Line No. | Item | Amount |
|---|---|---|
| 1. | Total operating revenues | $403,853 |
| 2. | Operating revenue deductions: | |
| 3. | Operating expenses and depreciation | 287,638 |
| 4. | Interest - customer deposits | 77 |
| 5. | Other operating taxes | 40,887 |
| 6. | Interest expense ($33,524 ÷ 1.011134) | 33,148 |
| 7. | Total deductions (L3 through L6) | 361,750 |
| 8. | Net operating income (L1 - L7) | 42,103 |
| 9. | Add: Life insurance premiums | 278 |
| 10. | State taxable income (L8 + L9) | 42,381 |
| 11. | State income tax rate | 6% |
| 12. | State income taxes (L10 x L11) | $ 2,543 |
| 13. | Federal taxable income (L10 - L12) | 39,838 |
| 14. | Federal income taxes (L13 x 48% - $6,500) | 12,622 |
| 15. | Amortization of investment tax credit | 2,860 |
| 16. | Federal income taxes (L14 - L15) | $ 9,762 |

Both witnesses included interest on customer deposits as an operating expense. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the Company will recover only its cost of these customer supplied funds.

Based on all the testimony and evidence presented in this case and discussed above, the Commission concludes that the proper level of total operating revenue deductions is $340,907.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company Witness Martin recommended an adjustment factor of 2.974% to raise actual income for the test year to a going level as of the end of the test year. The annualization factor calculated by Witness Martin represents the increase of average total stations in 1975 over average total

stations in 1974. Staff Witness Chappell recommended an adjustment factor of 1.134% based on the increase of end of test period primary stations over average primary stations during the test period.

Based on the testimony and evidence presented, the Commission concludes that the annualization factor should be based on the growth during the test year in primary stations. An annualization factor based on primary stations is a more reasonable factor to use since primary telephones are the basic revenue producing units. Primary stations also account for the majority of expenses and plant investment. The Commission further concludes that the test year is the proper period in which to calculate an annualization factor rather than comparing stations in the test year with stations the year prior to the test year. The Commission, therefore, concludes that the annualization factor of 1.134% as calculated by Staff Witness Chappell is proper.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-17

The Commission adopts the Company's capital structure of December 31, 1975, as presented by Staff Witness Chappell. This capital structure reflects book common equity of $319,443.

The Company testified that its test year embedded cost rate for long-term debt was 2.56%. The Commission finds and concludes that the debt embedded cost rate is 2.56%.

Staff Witness Currin testified that, in his best judgment, the cost of book equity capital to Randolph is 13.00% to 13.75%. Since Randolph's equity is not traded in the major capital markets, conventional quantitative techniques could not be used. Instead, Witness Currin used a qualitative evaluation of the risk differential between Randolph and the larger telephone utilities, Central and Western-Westco, to determine a risk premium to be added to the market returns of the larger, less risky telephone utilities.

Mr. Currin's analysis of the market returns of Central and Western-Westco demonstrated that the cost of equity in general, and to utilities specifically, has decreased in the past 18 months. In developing the risk premium for Randolph, Mr. Currin testified that Randolph's affiliation with REA effectively reduces much of the risk its stockholders would otherwise face. Accordingly, he recommended a relatively small risk premium for Randolph.

The Company sought a rate of return of 20.613%. There was no supporting testimony. The Commission notes that Randolph's capital structure contains only 18.33% common equity. Theoretically, at least, as the equity ratio declines, the risk to an equity holder increases. Further, Randolph's loan contract with the REA places dividend restrictions on the Company based on its equity ratio.

Obviously, if the Company continues to utilize the REA for all external financing, its equity ratio will continue to decrease. It would seem prudent for the Company to increase its equity ratio.

The Commission concludes that a fair return on equity for Randolph is 15.50%. In so deciding, the Commission takes into account (1) the relatively small size of the Company and (2) the attendant risks associated with the highly-leveraged capital structure. This rate of return should enable the Company, with proper management, to improve its capital structure.

The Commission has considered the tests laid down by G.S. 62-133(b)(4) and concludes that the rates herein allowed should enable the Company to attract sufficient debt and equity capital in order to discharge its obligations and achieve and maintain a high level of service to the public. The Commission cannot, of course, guarantee that the Company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the Company will be able to reach that level of return through efficient management.

The following schedules show the derivation and application of the findings and evidence and conclusions hereinabove and are to be incorporated therein:

SCHEDULE I
RANDOLPH TELEPHONE COMPANY
DOCKET NO. P-61, SUB 54
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $227,520 | $34,678 | $262,198 |
| Toll service | 159,140 | | 159,140 |
| Miscellaneous | 21,230 | | 21,230 |
| Uncollectibles | (4,037) | (343) | (4,380) |
| Total operating revenues | 403,853 | 34,335 | 438,188 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 77,574 | | 77,574 |
| Traffic expenses | 3,971 | | 3,971 |
| Commercial expenses | 12,282 | | 12,282 |
| General office salaries and expenses | 79,280 | | 79,280 |
| Other operating expenses | 24,894 | | 24,894 |
| Total operating expenses | 198,001 | | 198,001 |
| Depreciation | 89,637 | | 89,637 |
| Taxes other than income | 40,887 | 2,060 | 42,947 |
| Income taxes - State and Federal | 12,305 | 16,499 | 28,804 |
| Interest on customer deposits | 77 | | 77 |
| Total operating revenue deductions | 340,907 | 18,559 | 359,466 |
| Net Operating Revenues | 62,946 | 15,776 | 78,722 |
| Add: Annualization adjustment - 1.134% | 714 | | 714 |
| Net operating income for return | $ 63,660 | $15,776 | $ 79,436 |

| | | | |
|---|---|---|---|
| Investment in Telephone Plant | | | |
| Telephone plant in service | $2,234,876 | | $2,234,876 |
| Less: Accumulated depreciation | 670,924 | | 670,924 |
| Excess plant | 17,855 | | 17,855 |
| Net investment in telephone plant in service | 1,546,097 | | 1,546,097 |
| Investment in Rural Telephone Bank Class B Stock | 13,350 | | 13,350 |
| Allowance for Working Capital | | | |
| Materials and supplies | 48,196 | | 48,196 |
| Cash | 16,694 | | 16,694 |
| Average prepayments | 5,713 | | 5,713 |
| Less: Average operating tax accruals | 12,173 | | 12,173 |
| Customer deposits (end-of-period) | 1,960 | | 1,960 |
| Total Allowance for working capital | 56,470 | | 56,470 |
| Fair Value Rate Base | $1,615,917 | | $1,615,917 |
| Rate of return on fair value rate base | 3.94% | | 4.92% |

SCHEDULE II
RANDOLPH TELEPHONE COMPANY
DOCKET NO. P-61, SUB 54
TWELVE MONTHS ENDED DECEMBER 31, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity | Net Operating Income for Return |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Capitalization | | | | |
| Total debt | $1,309,539 | 81.04 | 2.56 | $33,524 |
| Common equity | 296,198 | 18.33 | 10.17 | 30,136 |
| Cost-free capital | 10,180 | .63 | | |
| Total | $1,615,917 | 100.00 | | $63,660 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $1,309,539 | 81.04 | 2.56 | $33,524 |
| Common equity | 296,198 | 18.33 | 15.50 | 45,912 |
| Cost-free capital | 10,180 | .63 | | |
| Total | $1,615,917 | 100.00 | | $79,436 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Alan Martin, Applicant's treasurer and assistant manager, testified that his Company desired to place into effect the directory assistance charge plan as used by Southern Bell, to charge $.20 for local coin telephone calls, to eliminate color charges, to convert key system rates to a package plan, and to increase business and residence main station, PBX trunks, and key trunk rates to produce an additional $63,229 of gross revenue.

Vern Chase, Chief Engineer of the Commission's telephone rate section, concurred with the rate design advocated by Mr. Martin since it is much like the design followed in recent telephone rate Orders.

Based on the record in this proceeding and the evidence and exhibits presented at the hearing, the Commission is of the opinion, and so concludes, that the rate design attached to this Order as Appendix "A" is just and reasonable and is

appropriate to produce the additional revenues granted in this Order.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Randolph Telephone Company, be, and hereby is, authorized to increase its North Carolina local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $34,678 (based upon stations and operations as of December 31, 1975) as hereinafter set forth in Appendix "A."

2. That the local monthly rates, general exchange item rates, and regulations prescribed and set forth in Appendix "A" attached hereto, which will produce additional gross revenues of approximately $34,678 from said end of test period customers, be, and hereby are, approved to be charged and implemented by Randolph, effective on service to be rendered on and after the date of this Order except as noted herein.

3. That Randolph shall file, within 10 days of this Order, the necessary revised tariffs reflecting the above increases, decreases, and regulations, said tariffs to be effective as of the date prescribed above.

4. That Randolph is authorized to begin directory assistance charges in accordance with Appendix "A" attached hereto within 62 days of this Order and after the NOTICE attached as Appendix "B" is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. That Randolph shall within 30 days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix "B," to all subscribers.

Should the Company be unable to initiate directory assistance charges in accordance with the above provisions, it shall so advise the Commission.

Further, that Randolph shall place in its telephone directories the directory information included in Appendix "B" relating to directory assistance charges.

5. That Randolph Telephone Company shall file monthly reports on the conversion of coin pay stations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of October, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
RANDOLPH TELEPHONE COMPANY
DOCKET NO. P-61, SUB 54

MONTHLY EXCHANGE RATES

| | |
|---|---|
| 1-Pty. Business | $16.50 |
| PBX Trunk | Two times B-1 |
| Key System Line | 1.3 times B-1 |
| 1-Pty. Residence | 6.60 |

See official file for complete Appendices "A" and "B."

DOCKET NO. P-61, SUB 54

COMMISSIONER HARVEY, DISSENTING. I dissent on an allowed rate of return of 15.5% to Randolph Telephone Company for the reasons given below:

I believe this return should be 13.5% which is within the range recommended by the Commission Staff.

It is my opinion that the intent of the statutes of North Carolina supports the view that the investor in a public utility, whether large or small, is relatively free from economic risks usually attributable to business ventures. While it can be expected that an economic or physical calamity of a given magnitude (taken alone) will have a larger impact upon a small company than a large one, any public utility has the right to apply to this Commission for appropriate relief as the circumstances may warrant.

The argument that high leverage which characterizes this company serves to magnify fluctuations in returns to equity investors and to increase the possibility of default on debt amortization must be considered. However, the source of debt financing to this company is the REA. This source of capital is unlikely to change. The REA may allow up to five-year grace periods to utilities unable to make scheduled interest or principal repayments. In addition, testimony in this case indicates that since 1960 no adverse fluctuation has been realized with regard to return to the stockholder.

W. Scott Harvey, Commissioner

DOCKET NO. P-55, SUB 742

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of | |
| Application of Southern Bell Telephone and Telegraph Company for an Adjustment in its Rates and Charges Applicable to Intrastate Telephone Service in North Carolina | ) ORDER AMENDING ORDER OF DECEMBER 19, 1975, TO EXEMPT FROM DIRECTORY ASSISTANCE CHARGE THE BLIND OR PHYSICALLY HANDICAPPED TO THE EXTENT THEY ARE UNABLE TO USE THE TELEPHONE DIRECTORY |

BY THE COMMISSION: On December 19, 1975, the Commission issued its Order in this docket granting partial increases in rates and charges and providing for a directory assistance charge of twenty cents for each use of directory assistance over and above five uses per month on an experimental basis for a test year of calendar year 1976, with the requirement that Southern Bell Telephone and Telegraph Company (hereinafter called "SOUTHERN BELL") report fully to the Commission on all data relating to the directory assistance charge as provided in ordering paragraph 8 on pages 54 and 55 of said Order for one representative month each quarter for the four quarters of 1976.

The Order of December 19, 1975, was issued by a panel of three Commissioners and constituted a final Order of the Commission pursuant to G.S. 62-60.1. A panel of three members of the Commission issued an Order in the rate application of Carolina Telephone and Telegraph Company on October 24, 1975, in Docket No. P-7, Sub 601, which contained a similar provision for a directory assistance charge.

Subsequent to said Order of December 19, 1975, the Full Commission considered in conference the question as to the exemption for the blind and those physically handicapped to the extent they are unable to use the telephone directory from the directory assistance charge.

On December 31, 1975, the Attorney General filed a Motion for Reconsideration and Stay of Implementation of the Directory Assistance Charge, primarily as it might apply to the handicapped.

Upon further consideration in conference on its own motion and on the motion of the Attorney General, and in order to gather data on the use of such charges and exemptions, the Commission is of the opinion that the Order of December 19, 1975, should be amended on an interim or temporary basis during the study period of calendar year 1976 to exempt the blind and those physically handicapped to the extent they are unable to use the telephone directory from the application of the directory assistance charge during said

study period, and until further Orders of the Commission thereafter.

The directory assistance charge was authorized by the Commission for experimental purposes to determine the cost and effect of providing directory assistance service and the reasonableness of imposing a separate charge for such service. In the application of Southern Bell and in the testimony at the public hearing, Southern Bell indicated its willingness to exempt service to such handicapped subscribers from the directory assistance charge, and in view of the fact that the cost of exempting the service to such handicapped subscribers was not considered in the rates fixed in the Order of December 19, 1975, the cost of the exemption provided herein will as a result be borne by Southern Bell's stockholders and will not be subsidized by the ratepayers during the period of the experimental study.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of the Commission entered herein on December 19, 1975, is hereby amended by adding a proviso at the end of ordering paragraph 10 thereof on page 56 of said Order to read as follows:

"provided that the charges for a directory assistance service shall not be applicable to inquiries received from services provided for subscribers or primary users who are blind or physically handicapped to the extent they are unable to use the telephone directory, during the study period of calendar year 1976, and until further Order of the Commission thereafter."

2. That Southern Bell shall file an amendment to its tariffs to include the above amendment exempting the blind and those physically handicapped to the extent they are unable to use the telephone directory, from the directory assistance charge, to be effective January 15, 1976.

3. That Southern Bell shall include in its directory assistance data reports under ordering paragraph 8 of the Order of December 19, 1975, separate data on the exempt use of directory assistance pursuant to the provisions of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This 15th day of January, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-78, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|---|---|---|
| In the Matter of<br>Application of Westco Telephone<br>Company for an Adjustment of its<br>Intrastate Rates and Charges | ) | ORDER APPROVING<br>INCREASES IN RATES<br>AND CHARGES |

HEARD IN: Courtroom of the Jackson County Courthouse, Sylva, North Carolina, on February 10 and 11, 1976, and in the Ninth Floor Courtroom, Buncombe County Courthouse, Asheville, North Carolina, on February 12 and 13, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners Ben E. Roney and Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina 27602; Philip J. Smith, Van Winkle, Buck, Wall, Starnes, Hyde & Davis, P. A., Attorneys at Law, P. O. Box 7376, Asheville, North Carolina 28801

For the Intervenors:

Robert Gruber, Assistant Attorney General, and Jerry Fruitt, Associate Attorney General, North Carolina Department of Justice, Justice Building, Raleigh, North Carolina 27602, Appearing for: The Using and Consuming Public

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, and Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On October 8, 1975, Westco Telephone Company filed an Application with the Commission for authority to increase its rates and charges for local telephone service in North Carolina. Westco alleged in its Application that the company was last granted a rate increase on May 1, 1975, in Docket No. P-78, Sub 32. This increase was based upon the operating experience of the company during the 12 months ending December 31, 1973. The company further alleged that, as a result of increased costs and additional investment in plant since 1973, the present rates are insufficient to provide the company a fair and

reasonable rate of return on the fair value of its property. The Applicant alleged other matters in support of its Application.

On October 23, 1975, the Commission, being of the opinion that the proposed increases affected the public interest, declared the proceeding a general rate case, suspended the proposed rates and charges, required the Applicant to give notice of the increases to the public and to its customers, and set the matter for investigation and hearing. The test year for the proceeding was the 12 months ending March 31, 1975. The Application was set for hearing at the following times and places:

Sylva, North Carolina, on February 10 and 11, 1976, at 9:00 a.m. in the Courtroom, Jackson County Courthouse.

Asheville, North Carolina, on February 12 and 13, 1976, at 9:00 a.m. in the Ninth Floor Courtroom, Buncombe County Courthouse, Courthouse Plaza.

[On October 8, 1975, Western Carolina Telephone Company also filed an Application for increases in its rates and charges for local telephone service in North Carolina. Western Carolina wholly owns Westco Telephone Company. By Order issued October 23, 1975, the Commission set Western Carolina's Application for hearing at the same times and places scheduled for Westco.]

The Attorney General of North Carolina filed a Notice of Intervention on October 27, 1975. An Order recognizing the Intervention of the Attorney General was issued by the Commission.

Other matters which are reflected in the Official File of this docket include:

(1) On November 12, 1975, the Commission issued an Order extending the time for the company to file the Service Charge Tariff in Docket No. P-78, Sub 32, until the company's proposed increases in this docket are concluded;

(2) On December 5 and 15, 1975, the company filed data responses in compliance with Commission Orders.

The proceeding came on for hearing as scheduled in Sylva and Asheville. The company presented the testimony of the following witnesses:

(1) Eugene E. Morris, President of Westco Telephone Company, testified on the Application of the company, the service to its customers, and the need for additional revenues.

(2) Edwin H. Guffey, General Commercial Manager, testified on rate design and the proposed rates, including an increase in coin telephone charges from 10¢ to 20¢.

(3) Carolyn Holt, Revenue Requirements Manager, Continental Telephone Service Corporation, testified on the financial and accounting records of the company, including the company's original cost rate base, its revenues, and its expenses.

(4) Michael B. Eastman, Assistant Vice President - Revenues, Continental Telephone Service Corporation, testified on the company's intrastate toll revenues.

(5) John C. Goodman, Assistant Vice President and Manager of the Public Utilities Division of the American Appraisal Company, Inc., testified on the appraisal study of the company's replacement cost.

(6) Frank J. Hanley, Senior Vice President, Associated Utilities Services, Inc., testified on the cost of capital and the fair rate of return of the company.

(7) James Skidmore, Continental Supply and Service Corporation, testified on Continental's pricing policies to its affiliated operating companies.

The Commission Staff offered the testimony of the following witnesses:

(1) Vern W. Chase, Chief, Telephone Rate Section, Engineering Division, testified on the company's proposed rates and rate design.

(2) Gene A. Clemmons, Chief Engineer, Telephone Service Section, Engineering Division, testified on the Staff's evaluation of service provided by Westco Telephone Company.

(3) James S. Compton, Telephone Engineer in the Telephone Service Section, testified on the Staff's review of the company's plant engineering, plant margins, the reasonableness of plant investment, and the verification of plant expenditures.

(4) Benjamin R. Turner, Jr., Telephone Engineer in the Telephone Service Section, testified on the prices of equipment and plant purchased by Westco Telephone Company as compared to the prices of similar equipment and plant purchased by other telephone companies operating in North Carolina.

(5) Nancy B. Bright, Staff Accountant, Accounting Division, testified on the intercorporate transactions between Westco and the manufacturing subsidiaries of Continental Telephone Service Corporation.

(6) Charles D. Land, Senior Operations Engineer of the Operations Analysis Section, Engineering Division, testified on the company's proposed replacement cost and on directory assistance.

(7) Paul B. Goforth, Staff Accountant, Accounting Division, testified on the test period original cost net investment, revenues, expenses, and return on the original cost net investment and common equity.

(8) Hugh L. Gerringer, Telephone Engineer with responsibilities in telephone toll settlements, Engineering Division, testified on the apportionment of the company's North Carolina operations between interstate and intrastate jurisdictions and the company's representative intrastate toll revenues for the test period.

(9) H. Randolph Currin, Jr., Rate Analyst in the Operations Analysis Section, Engineering Division, testified on the cost of capital and the fair rate of return to the company.

The Attorney General of North Carolina offered the testimony of Alan Baughcum, an economist for the North Carolina Department of Justice, who testified on the cost of capital to Westco Telephone Company and the relationship of this cost to the company's fair rate of return.

The following public witnesses testified in Sylva at the consolidated hearings for Western Carolina and Westco Telephone Companies:

William C. Stump, Director of Business Affairs, Western Carolina University, Cullowhee, N. C.;
Dr. Arthur Justice, Cullowhee, N. C.;
Ed Bryson, President of Southwestern Technical Institute, Sylva, N. C.;
John Ashe, Business Manager, Southwestern Technical Institute, Sylva, N. C.;
Veronica Nicholas, Sylva, N. C.;
James D. Wilson, Superintendent, Jackson County Schools, Sylva, N. C.;
Mark Martin, Cashiers, N. C.;
Robert A. Evans, Bureau of Indian Affairs, Cherokee, N. C.;
James Gilroy, Personnel Manager, Clifton Precision Company, Peachtree, N. C.;
Nancy Hall, Clifton Precision Company, Peachtree, N. C.;
Carl D. Moses, Hayesville, N. C.;
Jessie Cordell, Whittier, N. C.;
Grace Johnson, Whittier, N. C.; and
Lois Martin, Whittier, N. C.

The following public witnesses testified in Asheville at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Paul Garland, Principal, Buladean Elementary School, Bakersville, N. C.;
A. D. Harrell, Bakersville, N. C.;
Earl Street, Bakersville, N. C.;
Fred Garland, Bakersville, N. C.;
George Conrad, Bakersville, N. C.;
Howard Linse, Woodland Hills, N. C.;
Betty Hulst, Weaverville, N. C.;
Don Turman, Yancey County Committee on Aging, Burnsville, N. C.;
Grace Maynor, Weaverville, N. C.;
Worth Crow, Yancey County, N. C.;
Bayard Howell, Burnsville, N. C.;
Gail Touger, Burnsville, N. C.;
Gladys Sandlin, Burnsville, N. C.;
David Freeman, Weaverville, N. C.; and
Velma McCurry, Weaverville, N. C.

Based on the verified Application and exhibits, the testimony and exhibits presented during the public hearings, and the previous Commission Orders in Docket No. P-78 concerning the quality of service provided by Westco Telephone Company, the Commission makes the following

FINDINGS OF FACT

(1) Westco Telephone Company is a duly organized North Carolina corporation and is a subsidiary of Continental Telephone Corporation. Westco holds a franchise from this Commission to provide public utility telephone service in seventeen (17) exchanges which are located in nine (9) counties, principally in southwestern North Carolina. Westco is properly before the Commission in this proceeding, pursuant to G. S. 62-133, for a determination of the justness and reasonableness of its telephone rates and charges.

(2) Westco Telephone Company has filed Application with the Commission seeking an increase in its rates and charges for intrastate telephone service rendered in its franchised area. The total increases in rates and charges sought by Westco would produce approximately $1,198,089 in additional gross annual revenues, based on the test year level of operations. Westco last received an increase in its intrastate rates and charges on May 1, 1975, based on test year ending December 31, 1973.

(3) The test year for this proceeding is the 12 months ending March 31, 1975.

(4) The original cost investment of the North Carolina intrastate plant of Westco is $16,767,046. The accumulated provision for depreciation is $2,352,922. This original cost of intrastate plant of Westco includes $62,000 of plant that represents excess cost of plant purchased from Superior Continental Corporation and Vidar Corporation, the North Carolina division's affiliated supplier. The reasonable

original cost less depreciation of plant in intrastate service is $14,414,124.

(5) Westco's intrastate net investment in telephone plant in service includes excess profits of $62,000 resulting from intercorporate transactions between Westco Telephone Company and Superior Continental Corporation and Vidar Corporation.

(6) The reasonable replacement cost less depreciation of Westco's intrastate plant in service is $16,855,000.

(7) The reasonable allowance for working capital is $442,562.

(8) The fair value of Westco's utility plant used and useful in providing intrastate telephone service in North Carolina should be derived from giving 60% weighting to the reasonable original cost less depreciation and 40% weighting to the reasonable replacement cost less depreciation of Westco's utility plant. By this method, using the depreciated original cost of $14,414,124 and the depreciated replacement cost of $16,855,000, the Commission finds that the fair value of the utility plant devoted to intrastate telephone service in North Carolina is $15,390,000. The addition of a reasonable allowance for working capital of $442,562 yields a reasonable fair value of Westco's intrastate property in service of $15,832,562. This fair value includes a fair value increment of $976,000.

(9) The surcharge on billed intrastate toll revenues proposed by the company is inconsistent with the intrastate toll policies adopted by this Commission.

(10) The approximate gross revenues net of uncollectibles for Westco for the test period are $3,782,382 under present rates and under company proposed rates would have been $4,972,563 after annualization to year-end revenues.

(11) The level of Westco's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $3,011,361, which includes an amount of $886,380 for actual investment currently consumed through reasonable actual depreciation, after annualization to year-end level.

(12) The overall quality of the telephone service provided by Westco Telephone Company is inadequate.

(13) The capital structure of Westco's North Carolina intrastate operations at March 31, 1975, reflecting book common equity is as follows:

| | Percent |
|---|---|
| Total debt | 56.70% |
| Preferred stock | 2.30% |
| Common equity | 34.10% |
| Cost-free capital | 6.90% |
| | 100.00% |

(14) When the excess of the fair value rate base over original cost net investment (fair value increment) is added to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total debt | 53.21% |
| Preferred stock | 2.16% |
| Fair value common equity | 38.16% |
| Cost-free capital | 6.47% |
| | 100.00% |

(15) The company's original cost equity ratio is 34.10%, and the fair value common equity ratio is 38.16%.

(16) The failure of Westco to provide adequate telephone service is a material factor to be considered in establishing the fair rate of return. The company's proper embedded cost of total debt is 5.29%. The proper embedded cost of the company's preferred stock is 10.25%. The fair rate of return which should be applied to the fair value equity is 9.47%. The 9.47% return on fair value equity and the returns of 5.29% on total debt and 10.25% on preferred stock yield a rate of return on Westco's fair value property of 6.65%.

If the service of Westco had been adequate, a return of 7.3% on fair value property and 11.15% on fair value equity would be just and reasonable for the company.

(17) Westco must be allowed an increase in annual local service revenues of $6|7,503 to allow the company the opportunity, through prudent and efficient management, to earn the 6.65% return on the fair value of its property. This increased revenue requirement is based upon the fair value of the property, the reasonable test year operating expenses, and the revenues as previously determined.

(18) The schedule of rates and charges and the service charge tariff set forth in Appendices "A" and "B" attached to this Order are found to be just and reasonable, in that the schedule will generate additional annual local service revenues approximately $6|7,503. The charging for directory assistance is an appropriate means of requiring those subscribers who use the local directory assistance service to pay a portion of the costs incurred to provide the service.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, AND 3

The evidence for Findings of Fact Nos. 1, 2, and 3 comes from the verified Application of the company, its testimony and exhibits, and the Official File in this docket. These findings are jurisdictional and were not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Original Cost Plant

Company Witness Holt and Staff Witness Goforth presented testimony and exhibits concerning the original cost of Westco's intrastate net telephone plant in service. The following chart summarizes the amount which each of the witnesses contends is proper for this item:

| Item | Company Witness Holt Per Exhibits (a) | Company Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Investment in telephone plant in service | $16,461,885 | $16,829,046 | $16,829,046 |
| Reserve for depreciation | 2,310,504 | 2,356,214 | 2,352,922 |
| Excess profits | ---------- | ---------- | 62,000 |
| Net telephone plant in service | $14,151,381 | $14,472,832 | $14,414,124 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. She stated that if the intrastate allocation factors based on a cost separations study for the twelve months ended June 30, 1975, had been available when she filed her testimony and exhibits, she would have used the intrastate factors based on the twelve months ended June 30, 1975. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors; however, column (b) above shows telephone plant in service presented by Witness Holt restated to reflect the June 30, 1975, intrastate allocation factors. Staff Witness Goforth used the factors from the June 30, 1975, cost separations study. The Commission concludes that the factors from the June 30, 1975, cost separations study should be used to allocate North Carolina combined plant in service, depreciation reserve, revenues, and expenses to intrastate operations.

The Commission will now discuss the differences between amounts claimed by Witness Holt adjusted for 1975 cost separations factors in column (b) above and the amounts

claimed by Witness Goforth in column (c) for each item included in arriving at net telephone plant in service. As the above chart shows, the two witnesses agree that the amount to be included for investment in telephone plant in service is $16,829,046. The Commission concludes that the amount of $16,829,046 is proper and will use this amount in calculating net investment in telephone plant in service.

The first item of difference is the amount to be deducted for the reserve for depreciation. Staff Witness Goforth reduced the reserve for depreciation and depreciation expense by $3,292 for depreciation recorded during the test year on excess profits included in the plant accounts. The Commission concludes that this adjustment to the reserve for depreciation is reasonable and that the reasonable amount to be included as the intrastate reserve for depreciation is $2,352,922.

The next item of difference in net telephone plant in service presented by the witnesses is an adjustment of $62,000 made by Staff Witness Goforth to eliminate from the plant accounts excess profits on plant purchased by Westco from Superior Continental Corporation and Vidar Corporation. The Commission has found in Finding of Fact No. 5 that there exists in the plant accounts of Westco Telephone Company $62,000 of excess profits on plant purchased from Superior Continental Corporation and Vidar Corporation. Therefore, the Commission concludes that Witness Goforth's adjustment reducing Westco's net investment in telephone plant in service by this amount is proper.

Based on all the testimony and evidence in this case, the Commission concludes that the reasonable original cost depreciated of Westco's telephone plant in service is $14,414,124.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

### Excess Profits

The Commission's analysis of this finding involves the testimony of Company Witness Skidmore and Staff Witnesses Bright and Turner concerning affiliated company transactions and intercompany profits.

Ms. Bright testified that a very close, even if not less than arm's-length, relationship exists between Westco and the manufacturing subsidiaries of Continental Telephone Corporation. The manufacturing subsidiaries of Continental are Superior Continental Corporation and Vidar Corporation. Westco, Superior, and Vidar are all subsidiaries of Continental Telephone Corporation.

Ms. Bright testified that the affiliated domestic telephone companies of Continental Telephone Corporation have purchased approximately 37.55% of the total volume of equipment manufactured and supply sales of the manufacturing

affiliates during the eight-year period 1967 through 1974. During such eight-year period (1967-1974), Westco purchased approximately 54.63% of its total purchases of equipment and supplies from the Continental manufacturing affiliates with a high-low range of 92.12% in 1968 to 16.70% in 1971. During the six-year period (1969 through 1974), the manufacturing affiliates earned an average return on average shareholder equity of approximately 23.73% on sales to Continental system domestic telephone companies, such as Westco. The return on average shareholder equity ranged from a high of 34.28% in 1970 to a low of 18.78% in 1974.

Ms. Bright testified that she made a study of 80 companies, 78 of which comprise the electrical equipment/electronics industry as grouped by The Value Line Investment Survey and two other companies that manufacture telephone equipment. This study indicates that for the years 1973 and 1974 the weighted average earnings on equity of these 80 companies were 14.0% and 10.4%, respectively, and that these 80 companies had a weighted average debt percent to total capital for 1973 of 26.8% and for 1974 of 28.3%. Earnings of the manufacturing affiliates and the weighted average debt percent to total capital for 1973 and 1974 compare with the 80 companies, Western Electric Company, and Automatic Electric Company as follows:

| Company | Return on Net Worth | | Funded Debt % Total Capital | |
|---|---|---|---|---|
| | 1973 | 1974 | 1973 | 1974 |
| Western Electric Company | 10.5% | 9.6% | 23.9% | 23.4% |
| 80 Companies | 14.0% | 10.4% | 26.8% | 28.3% |
| Automatic Electric Company (General Telephone) | 16.2% | 14.5% | 10.2% | 9.0% |
| Manufacturing Affiliates 1/ (Superior and Vidar) | 24.2% | 6.9% | 40.8% | 37.5% |

1/ Weighted average.

Witness Turner presented a study of the prices paid for equipment and plant purchased by Westco from affiliated manufacturers as compared to purchases of functionally equivalent equipment by other telephone companies operating in North Carolina. He presented twelve specific price comparisons of comparable items of equipment sold and exchanged between Western Electric and the Bell System as compared to prices charged by the manufacturing affiliates on sales to Westco during 1974. All the price comparisons showed the Westco cost to be higher than the Bell cost.

Mr. Turner presented eight specific price comparisons of comparable items of equipment sold and exchanged between General Telephone and Automatic Electric as compared to the prices charged by the manufacturing affiliates on sales to Westco during 1974. Seven of the price comparisons showed

the Westco cost to be higher than the General cost, and one of the price comparisons showed the cost to be the same.

Mr. Turner also presented nine specific price comparisons of comparable items of equipment sold and exchanged between Central Telephone and Centel Service as compared to the prices charged by the manufacturing affiliates on sales to Westco during 1974. Six of the price comparisons showed the Westco cost to be higher than the Central cost; two of the price comparisons showed the cost to be the same; and one of the price comparisons showed the Westco cost to be less than the Centel cost.

In rebuttal testimony, Mr. Skidmore testified concerning the prices which the Continental Supply and Service Corporation charges Westco. The Continental Supply and Service Corporation is an affiliate of Westco. Mr. Skidmore presented a comparison of Continental Supply's catalog prices with Automatic Electric's catalog prices during 1974. The price comparisons showed Continental Supply's prices to be lower than Automatic Electric's prices. Mr. Skidmore also presented price data which showed Continental Supply's catalog prices for several periods during 1974. These data showed that Continental's prices changed several times during 1974.

In the company's last rate case, Docket No. P-78, Sub 32, the Commission in its Order found that Westco's net investment in utility plant in service should be adjusted to exclude $50,000 of "excess profits" surviving in net plant accounts at December 31, 1973, and that the company's affiliated suppliers should be allowed a 15.0% return on equity.

The Commission concludes that the Applicant's net investment in utility plant in service should be adjusted to exclude "excess profits" surviving in the net plant accounts at March 31, 1975, in the amount of $62,000. The adjustment is based on the concept of limiting the earnings of the supplier affiliate to a reasonable rate of return on equity. The Commission concludes that on transfers of equipment and supplies between the manufacturing affiliates of Continental and the Applicant, a return of 15.0% is a reasonable rate of return on equity.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

### Replacement Cost

Although the term "replacement cost" envisions replacing utility plant in accordance with modern design techniques and with the most up-to-date changes in the state of the art of telephony, replacement cost as presented by the company is founded upon the premise of the duplication of plant as is, with inefficiencies and outmoded design included. Even though normal obsolescence can be accounted for in proper depreciation treatment, the efficiencies of more modern

plant are not incorporated in the trending process. Nevertheless, the Commission concludes that the replacement cost as proposed by the company and as amended by the Staff for the purported value of the replacement cost represents some evidence on the replacement cost of the plant in service. Accordingly, the weight given to the replacement cost in this proceeding is based upon a detailed evaluation of the methodology employed.

Company Witness Goodman testified on the net replacement cost new of the company's intrastate plant in service. Reproduction cost determined by the trending methods restates the investment in the existing plant in terms of current price levels. The replacement cost new of the plant was determined by adjusting the reproduction cost new by vintage years as found above for the effects of the differences in labor and equipment utilization efficiencies which would be realized if all of the plant were installed at one time rather than on a piecemeal basis as it was originally installed. The application of a mass impulse adjustment factor to the reproduction cost new of the surviving plant by year of placement results in the replacement cost new of the plant as presently constituted but installed at one time. The replacement cost new as defined above was then reduced by a depreciation factor which includes adjustment for mechanical deterioration, age, obsolescence, lack of utility, and other appropriate causes.

Commission Staff Witness Charles Land testified that he disagreed with Mr. Goodman's use of cable prices other than end of test period prices to base trend factors for older vintage years. Mr. Land introduced an exhibit showing that substantial decreases in cable prices paid by the company had occurred in late 1974 and early 1975. He stated that using March 31, 1975, cable prices as references for trending would result in much lower trended cost.

Mr. Land also disagreed with Mr. Goodman's estimates of condition percent. He observed that one of the most widely recognized methods of estimating condition percent was the ratio of remaining life to probable life new for each vintage year.

Mr. Goodman argued that replacement cost should be viewed from a valuation standpoint; whereas, Mr. Land argued that the law specified replacement cost, not replacement value.

The Commission concludes that March 31, 1975 (end of test period), price levels should be used as references for trending, provided these prices are "normal" and not temporarily inflated or deflated. The Commission further concludes, in view of the Supreme Court decisions, that replacement cost is a calculated cost and is not intended to be a market value concept. The Commission concludes that the replacement cost new of Westco's North Carolina properties is $30,059,000 and that the replacement cost less depreciation is $22,183,000. The replacement cost less

depreciation of the company's intrastate plant in service is $16,197,000. The Commission deducts from this amount $62,000 of excess cost of plant in service at March 31, 1975, resulting in a replacement cost less depreciation of $16,855,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Working Capital Allowance

Staff Witness Goforth and Company Witness Holt each presented a different amount for the working capital allowance.

Company Witness Holt testified that she used as the working capital allowance the North Carolina intrastate amount of materials and supplies at March 31, 1975, of $90,007 plus a computed allowance for working capital of $449,662. Witness Holt stated that she used a modified FPC formula in computing cash working capital which considers the lag in collection of revenues but does not consider the lag in payment of expenses. This computation includes prepayments at March 31, 1975, and compensating bank balance requirements necessary to maintain a bank line of credit.

Staff Witness Goforth presented a working capital allowance of $442,374 consisting of materials and supplies, a cash allowance of one-twelfth of operating expenses excluding depreciation and taxes, average prepayments and compensating bank balances, less average tax accruals, and end-of-period customer deposits. Witness Goforth testified that the manner in which he determined his working capital allowance is the manner in which this Commission has determined the working capital requirement in recent rate proceedings.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the working capital allowance as presented by Staff Witness Goforth should be used in this case. The allowance for working capital will be determined by adding end-of-period materials and supplies, cash equal to one-twelfth of operating expenses (excluding depreciation and taxes), average prepayments, and compensating bank balances, less average tax accruals and end-of-period customer deposits. Using these components in the calculation, the Commission concludes that the reasonable allowance for working capital is $442,562.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Fair Value Rate Base

The Commission concludes that, considering the original cost less depreciation of $14,414,124 and the replacement cost less depreciation of $16,855,000, the reasonable weighting of original cost less depreciation is 60% and the

reasonable weighting of the replacement cost less depreciation is 40% in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. This weighting results in a fair value of plant in service of $15,390,000 which includes a reasonable fair value increment of $976,000. With the addition of the working capital allowance of $442,562, the fair value rate base is $15,833,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Toll Surcharge

Company Witness Esstman in his direct testimony recommended an intrastate toll rate surcharge on billed intrastate toll revenues to generate a portion of the company's overall intrastate revenue deficiency in order to reduce the increase in local exchange rates necessary to support this deficiency. Witness Esstman determined that the surcharge should be 12.3% on a combined company basis producing combined toll revenues of $390,000 to be divided between the two companies so that Westco would receive 28% of the total or $109,200. The 12.3% surcharge rate resulted from the treatment of the difference in a computed rate of return on intrastate toll operations for the test period of 8.81% and a computed overall cost of capital of 10.40% weighted for the two companies excluding deferred taxes and attrition. The 10.40% cost of capital included returns on common equity of 14.0% and 14.5% for Western Carolina and Westco, respectively. Witness Esstman further indicated that, in order for the companies to continue on a cost basis of settlement with Southern Bell, it would be necessary for the Commission to authorize the companies to retain the surcharge toll amounts and to settle with Southern Bell based on uniform message toll rates.

Staff Witnesses Chase and Gerringer both opposed the company's recommended intrastate toll rate surcharge in their direct testimonies on the basis that it constituted a form of nonuniform intrastate toll rates which the Commission does not advocate due to the discriminatory problems it creates for the telephone customer and the equipment and administrative problems it creates for the telephone companies. Also, nonuniform toll rates violate existing Traffic Agreements governing toll settlements between Southern Bell and the independent connecting companies in North Carolina.

It is the Commission's decision that none of the increase in intrastate revenues granted in this rate case proceeding shall be derived from a surcharge applied to billed intrastate toll revenues. The basis for the Commission's decision is that it views the toll surcharge as constituting a form of nonuniform intrastate toll rates with all the attendant problems and that the company's method of determining the surcharge rate raises the broad question of whether or not it is proper to include the relative cost of

capital of all companies making toll settlements on an actual cost basis in determining the intrastate toll settlement rate of return. This question involves all actual cost settlement companies including Southern Bell and is rightfully set out for investigation and study in Docket No. P-100, Sub 32, which is concerned with the investigation of the division of intrastate toll revenues among all telephone companies in North Carolina.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

### Operating Revenues

Company Witness Holt, Company Witness Eastman, Staff Witness Goforth, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer testified specifically concerning the intrastate toll revenue increase effective July 1, 1975, the method of dividing the settlements received from Southern Bell between Western Carolina and Westco, the separation factors developed from the cost separations study for the twelve months ending June 30, 1975, and the separations procedures employed by the company to separate its operating revenues and expenses between jurisdictions. Mr. Eastman offered testimony concerning Southern Bell's estimated rate of return to be earned on intrastate toll operations for the calendar year 1976. Witnesses Holt and Goforth each testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments.

The following chart shows the amount claimed by each of these witnesses:

| Item | Company Witness Holt (a) | Company Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Local service | $2,416,848 | $2,416,848 | $2,374,417 |
| Toll service | 1,169,865 | 1,043,302 | 1,353,493 |
| Miscellaneous | 79,285 | 79,602 | 79,602 |
| Uncollectible | (24,196) | (30,942) | (25,130) |
| Total | $3,641,802 | $3,508,810 | $3,782,382 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. The Commission concluded under Evidence and Conclusions for Finding of Fact No. 4 that the factors from the June 30, 1975, cost separations study should be used to allocate

North Carolina combined revenues to intrastate operations. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors. However, in column (b) above, the Commission has restated operating revenues as presented by this witness to reflect the June 30, 1975, intrastate allocation factors. The Commission will discuss the differences between these figures and the ones claimed by Witness Goforth.

The first item of revenue difference of $42,431 in local service is caused by the method each witness used to determine end-of-period local service revenues. In determining the end-of-period level of local service revenues, Mr. Goforth testified that he started with the March 1975 billing of $194,855. From this he deducted interim revenues of $25,375 to obtain the March billing exclusive of the effect of the interim rate increase granted January 1, 1975. He further testified that he multiplied this amount by 12 to get annualized local service revenues, exclusive of any interim revenues effective January 1, 1975. To this figure, Mr. Goforth testified that he added the annual amount of additional revenues which will result from the permanent rate increase granted in Docket No. P-78, Sub 32, effective June 1, 1975. The Commission granted Westco Telephone Company an annual rate increase of $302,178, based on stations at December 31, 1973. Mr. Goforth testified that it was necessary to increase the amount of $302,178 because this previous rate increase was based on stations at December 31, 1973, rather than the stations at March 31, 1975. He stated that it was necessary to recognize additional revenues which will result from the increase in these stations and that he computed this additional revenue by determining the percentage growth of primary stations from December 31, 1973, to March 31, 1975. He then applied this growth factor to the $302,178 granted in the last docket to arrive at his end-of-period revenues of $320,206. He testified that he added $320,206 to the annual March billing of $2,033,760 which was exclusive of any rate increase to get total annualized March billing of $2,353,966. From this amount he deducted advanced billing and added the company's end-of-period connecting company revenues, pay station refunds, EAS revenues and local private line revenues to arrive at his end-of-period level of local service revenues of $2,374,417. When this amount was compared to Company Witness Holt's end-of-period local service revenues of $2,416,848, it was necessary to reduce the amount included by Witness Holt by $42,431.

In determining the end-of-period level of local service revenues, Witness Holt began with the March 1975 billing exclusive of any revenues resulting from the January 1, 1975, interim rate increase. She then multiplied this amount by 12 to get the annual effect of the March 1975 billing, exclusive of any interim rate increase. To this amount she added $251,820, which represents ten months of the rate increase granted in Docket No. P-78, Sub 32. Witness Holt increased this total by 1.65% for the

percentage growth in main stations during the test period. To this amount she added $74,587, which represents five months of the interim rate increase or approximately 2 1/2 months of the full increase granted in Docket No. P-78, Sub 32, to arrive at end-of-period local service revenues of $2,416,848.

The Commission is of the opinion that the method used by Witness Goforth is the proper method of determining end-of-period local service revenues because the method used by Witness Holt overstates end-of-period local service revenues. The main error in this witness' method is that she increased the March 1975 billing (exclusive of the interim rate increase) by the percentage of main station growth during the test year. This was in error because the March 1975 billing was already on an end-of-period basis; therefore, it was unnecessary to apply the main station growth factor to the March 1975 billing. The Commission concludes that Staff Witness Goforth's end-of-period level of local service revenues in the amount of $2,374,417 should be used for the purpose of fixing rates.

The second item of revenue difference of $310,191 relates to the appropriate amount which should be included for end-of-period intrastate toll service revenues. Staff Witness Gerringer and Company Witness Holt presented testimony concerning the appropriate level of end-of-period toll revenues. Witness Gerringer testified that the approach he used to arrive at end-of-period intrastate toll service revenues for the test year for Westco is consistent with the manner in which the company developed its intrastate net investment and intrastate operating expenses for presentation in this proceeding. Under Witness Gerringer's method for computing end-of-period toll revenues for the two companies, approximately 34% of the total combined revenues was allocated to Westco. Company Witness Holt offered testimony and exhibits showing that in developing end-of-period toll service revenues she computed total end-of-period toll revenues for Western Carolina and Westco on a combined basis. The witness allocated this amount to Westco, based on the ratio of Westco's A, B, Line Haul, and WATS messages to the total of Western Carolina's and Westco's combined A, B, Line Haul, and WATS messages. This method resulted in approximately 28% of the combined toll revenues being allocated to Westco.

Company Witness Holt used an intrastate toll settlement rate of return of 9% based on Southern Bell's original estimate of the effect of the increase in intrastate toll rates that became effective July 1, 1975, as allowed by Commission Order in Docket No. P-100, Sub 34. Staff Witness Gerringer also used a rate of 9% which he based on the annualized actual rates of return on intrastate toll operations for July through November, 1975.

Company Witness Eastman offered additional testimony advocating that a rate of return of 8% be used in

calculating end-of-period toll revenues. He stated that an 8% rate of return was provided by Southern Bell as an estimate of the rate of return to be earned on intrastate toll settlements for the calendar year 1976.

The Commission concludes that Witness Gerringer's method should be used to calculate end-of-period intrastate toll revenues. This method results in intrastate toll revenues being allocated to Western Carolina on a basis consistent with the basis used by both company and Staff witnesses to allocate North Carolina combined investment and expenses to intrastate operations.

The approach Staff Witness Gerringer used to determine each Company's end-of-period intrastate toll revenues is the same approach that he used in Western Carolina's and Westco's last general rate cases in Docket No. P-58, Sub 93, and Docket No. P-78, Sub 32, respectively. This approach was accepted by the Commission in making a final decision in each rate case. The Commission is of the opinion that this method is appropriate and unless a cost separations study is performed for each company, the Commission will only consider this approach in future rate filings.

The Commission also agrees with Witness Gerringer that the proper intrastate toll settlement rate of return to be used in this proceeding is 9%. Witness Gerringer's recommended rate of return of 9% is a more reasonable return than the 8% recommended by Company Witness Esstman. The 8% return recommended by Witness Esstman represents nothing more than Bell's best estimate of the intrastate toll earnings for 1976. The 9% return recommended by Witness Gerringer represents the actual achieved return after the toll rate increase for the months of July through November, 1975. The Commission concludes that an annualized intrastate toll rate of return of 9% is the proper rate to be used in estimating the end-of-period intrastate toll revenues for Westco in this proceeding.

Staff Witness Gerringer testified that Westco's end-of-period intrastate toll revenues of $1,354,400 do not include the effects of any adjustments made by Commission Staff Witness Goforth. Witness Goforth made an adjustment of $907 decreasing intrastate toll revenues following adjustments to depreciation expense, postal expense, and to plant in service. Witness Goforth testified that, if Westco had actually experienced the net decrease in operating expenses and the decrease in plant investment which he proformed into the test period operations, Westco would have received $907 less in intrastate toll revenues from Southern Bell.

As previously discussed under Evidence and Conclusions for Finding of Fact No. 5, the Commission excluded excess profits from the original cost net investment, and, under Evidence and Conclusions for Finding of Fact No. 11, the Commission accepted Witness Goforth's adjustments to depreciation expense and postage expense. Consistent with

those conclusions the Commission accepts Witness Goforth's adjustment of $907, representing the intrastate toll revenue effect of these adjustments. Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the proper level of intrastate toll revenues is $1,353,493.

Both witnesses are in agreement that the proper level of end-of-period miscellaneous revenues is $79,602; therefore, the Commission concludes that end-of-period level of miscellaneous revenues is $79,602.

The remaining difference of $5,812 in the amounts proposed by the witnesses for intrastate operating revenues relates to the amounts each witness included as uncollectible revenues. Both Witness Goforth and Witness Holt increased or decreased uncollectible revenues to reflect the uncollectible portion of their revenue adjustments. The Commission concludes that, having adopted all of Witness Goforth's revenue adjustments, it is also proper to adopt Witness Goforth's intrastate uncollectible revenue amount of $25,130.

In summary, the Commission concludes that the appropriate level of operating revenues under present rates is $3,782,382, consisting of $2,374,417 in local service revenues, $1,353,493 in intrastate toll service revenues, $79,602 in miscellaneous revenues, and uncollectible revenues of $25,130.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Operating Revenue Deductions

Company Witness Holt and Staff Witness Goforth presented testimony and exhibits showing the level of intrastate operating revenue deductions they believed should be used by the Commission for the purpose of fixing Westco Telephone Company's rates in this proceeding.

The following chart shows the amount contended for by each witness:

| Item | Company Witness Holt Per Exhibits (a) | Company Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Operating expenses | $1,377,782 | $1,389,103 | $1,395,094 |
| Depreciation and amortization | 876,955 | 889,672 | 886,380 |
| Taxes - other than income | 394,636 | 389,183 | 427,334 |
| Income taxes - state and federal | 240,145 | 167,792 | 299,578 |
| Interest on customer deposits | | | 1,871 |
| Total operating revenue deductions | $2,889,518 | $2,835,750 | $3,010,257 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. The Commission concluded under Evidence and Conclusions for Finding of Fact No. 4 that the factors from the June 30, 1975, cost separations study should be used to allocate North Carolina combined expenses to intrastate operations. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors. However, in column (b) above, the Commission has restated operating revenue deductions as presented by this witness to reflect the June 30, 1975, intrastate allocation factors. The Commission will discuss the differences between these figures and the ones claimed by Witness Goforth.

The first item causing a difference in the amounts proposed for operating revenue deductions is an adjustment made by Staff Witness Goforth to include as operating expenses a postal rate increase of 30% effective December 1975. Witness Goforth testified that a first-class postage increase from 10¢ to 13¢ an ounce took place in December 1975 and made an adjustment of $5,991 to increase Westco's intrastate test year postage expense for this change in postal rates. The company did not make an adjustment for the postal rate increase.

The Commission concludes from the evidence presented that Witness Goforth's adjustment increasing postage expense in the amount of $5,991 should be included in the fixing of Westco's rates in order to reflect in the test year the higher postage rates that will be in effect subsequent to December 1975.

There is one increase in operating expenses which must be made. Staff Witness Land testified as to the cost reduction which Westco may expect by charging for directory assistance

calls. Since the Commission is setting rates based on charging for these calls, the Commission also finds that the cost increase of $2,264 as testified to by Witness Land should be considered as a further increase in operating expenses. The derivation of the $2,264 cost increase is explained under Evidence and Conclusions for Finding of Fact No. 18. The Commission concludes the proper level of operating expenses is $1,397,358.

The next item causing a difference in operating revenue deductions is an adjustment made by Witness Goforth to eliminate depreciation recorded on excess profits related to purchases from Superior Continental Corporation and Vidar Corporation. Based on the Commission's decision in Evidence and Conclusions for Finding of Fact No. 5 that the profits of Superior Continental Corporation and Vidar Corporation on sales to Westco were excessive, the Commission concludes that the depreciation expense in the amount of $3,292 on excess profits should be eliminated for purposes of fixing rates. Based on the foregoing discussion, the Commission concludes that the proper level of depreciation expense is $886,380.

The next item causing a difference in operating revenue deductions is the amounts proposed by the two witnesses for taxes other than income due to adjustments made by each to include gross receipts tax on operating revenue adjustments. Consistent with its conclusions that Witness Goforth's adjustments to revenues were proper, the Commission concludes that Witness Goforth's adjustment decreasing end-of-period intrastate gross receipts tax is proper and that the proper level to be included in the test year for taxes other than income is $427,334.

The Commission will now discuss state and federal income taxes. Both Staff Witness Goforth and Company Witness Holt calculated the amount which should be included for end-of-period intrastate state and federal income taxes. The level computed by Company Witness Holt is $167,792, while the amount computed by Staff Witness Goforth is $299,578. The reason for this is that state and federal income taxes are a function of income before income taxes multiplied by the state and federal statutory tax rate. Income before income taxes is determined by deducting from operating revenues, operating revenue deductions, interest cost and Schedule M deductions for which normalization accounting is not followed. As previously discussed, both witnesses included different amounts for operating revenues and operating revenue deductions. Therefore, the amounts used by each for taxable income and, hence, the amount included for state and federal income tax expense will be different. The Commission does not believe any benefit will be gained from rehashing these differences. Since the adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of end-of-

period state and federal income tax expense. However, there exists one item of difference in the two witnesses' computations of federal income taxes which should be discussed. In computing federal income taxes, Witness Holt deducted only the portion of state income taxes which are currently payable by Western Carolina while Witness Goforth deducted both the amount of state income taxes currently payable and the amount of state income taxes which were deferred during the test year. The Commission agrees with Witness Goforth's deduction of both current and deferred state income taxes in computing federal income taxes. In this proceeding rates are being set to cover a normalized level of state income taxes which not only includes state income taxes currently payable but state income taxes which will be deferred and not paid by Westco until future years. Consistent with the Commission's practice of including normalized state income tax expense in determining the company's cost of service for rate-making purposes, the Commission herein adopts Witness Goforth's method of deducting both the deferred portion of state income taxes as well as the portion which is payable currently in computing federal income taxes.

The Commission concludes that the proper end-of-period amount of state income taxes is $36,791 and federal income taxes is $261,627. The following schedule sets forth the state and federal income tax calculation:

| Line No. | Item | | Amount |
|---|---|---|---|
| 1. | Total operating revenues | | $3,782,382 |
| 2. | Operating revenue deductions: | | |
| 3. | Operating expenses and depreciation | | 2,283,738 |
| 4. | Interest - Customer deposits | | 1,871 |
| 5. | Other operating taxes | | 427,334 |
| 6. | Interest expense | | 445,616 |
| 7. | Total deductions | | 3,158,559 |
| 8. | Net operating income | | 623,823 |
| 9. | Add: Depreciation on items capitalized | $30,682 | |
| 10. | Deduct: Payroll taxes capitalized | (1,879) | |
| 11. | Property taxes capitalized | (4,715) | |
| 12. | Pensions capitalized | (18,524) | (10,636) |
| 13. | State taxable income (L8 - L12) | | 613,187 |
| 14. | State income tax rate | | 6% |
| 15. | State income tax (L13 X L14) | | 36,791 |
| 16. | Federal taxable income (L13 - L15) | | 576,396 |
| 17. | Federal income tax rate | | 48% |
| 18. | Federal income tax (L16 X L17) | | 276,670 |
| 19. | Amortization of investment tax credit | | (15,043) |
| 20. | Federal income taxes (L18 - L19) | | $ 261,627 |

Staff Witness Goforth proposed to include interest on customer deposits as an operating expense. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the company will recover only its cost of these customer supplied funds.

Based on all the testimony and evidence presented in this case and discussed above, the Commission concludes that the proper level of total operating revenue deductions is $3,011,361.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Quality of Service

The evidence as to the quality of service provided by Westco which appears in this record consists of the testimony and exhibits of Eugene Morris, President of Westco Telephone Company; Gene A. Clemmons, Chief Engineer, Telephone Service Section, North Carolina Utilities Commission; and 30 public witnesses who appeared at the hearings in Sylva and Asheville. The Commission takes judicial notice of the prior Orders of the Commission in Docket No. P-78.

Mr. Morris testified that he became president of Westco in October 1975. He adopted the prefiled testimony of former President Norman Gum and described the general operations of Westco Telephone Company, the construction problems which he considered unique to the area served by Westco, the customer growth experienced by the company since 1970, the company's upgrading program, the trouble report handling program, the program to improve and maintain the quality of toll service, the company's construction program since 1970, and the forecasted capital expenditures to 1979. The witness stated that the company has progressed from relatively poor service in the 1960's to better and steadily improving service today.

Mr. Clemmons testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by Westco. Witness Clemmons testified that the company had been evaluated with respect to meeting the service objectives established by the Commission in the previous Orders; that the history of the company reflected periods of improvement followed by declines in the quality of service; that since issuance of the Commission's Order in April 1975 the trend has been improving; that there are several areas where service has not been brought to the level required by previous Commission Orders; that major problems still exist with regard to the efficiency of handling subscriber trouble reports; that the company's efforts to meet the service order objective have fallen far short; and that the efficiency with which service orders and

trouble reports are handled is very critical in the development of subscriber attitude about telephone service. Witness Clemmons further testified that Westco has developed basic operating practices and procedures, but the fundamental problem is with the efficient implementation of such procedures; that this is a basic function of the management of the telephone company; and that Westco must have competent, dedicated, and stable management to achieve the level of service expected by the subscribers and the Commission.

Of the 30 public witnesses who testified at the consolidated hearings in Sylva and Asheville, there were 11 witnesses who made specific service complaints, 18 witnesses who were not complaining about service but objected to the proposed rate increase, and one witness who stated that the notice of hearing was inadequate. The public witness testimony concerning service problems included complaints from three business subscribers including Clifton Precision Company, Southeastern Teacher Corps Network, and Mark Martin, a business subscriber in Cashiers.

James Gilroy, Personnel Manager of Clifton Precision, testified that since September 1975 his company has maintained a log of operating difficulties with Westco, that there has been a slight improvement in service, but that the longstanding problems still remain. Ms. Nancy Hall, Purchasing Agent for Clifton Precision, testified that she uses the telephone extensively for making long distance calls and has maintained a log of her long distance calls since November 1975. Ms. Hall stated that she has tremendous difficulty making long distance calls including problems such as calls going completely dead, frequent operator cut-ins, called party not hearing her, static on lines, and cross talk.

Dr. Arthur Justice, Executive Director of the Southeastern Teacher Corps Network, testified that his service problems include cut-offs, failure of equipment to function properly, dial tone returned, and noises on the line. Dr. Justice further stated that he tried to get service, but only on a few occasions did a serviceman come; the problem was never fixed. He further stated that the service remains at the same level or deteriorates.

Mr. Martin testified that his service problems included a high percentage of cut-offs on long distance calls, the inability to ring through to a number, or being told that the phone was out-of-order. The witness further stated that things are not much better now than they were a year ago.

The remaining 8 witnesses who testified concerning service problems indicated difficulties such as local dialing malfunctions, noise on line, cut-offs on local and long distance calls, inability to be upgraded from four-party to one-party at Buladean Elementary School, slow operator answers from Bakersville area, and incorrect toll billings.

The official records in Docket Nos. P-58 and P-78 include the following: On March 20, 1967, the Commission issued an Order of investigation and show cause to Western Carolina, Westco Telephone Company, and Continental Telephone Corporation. In this Order the Commission noted that, as a result of numerous complaints and various field observations, the service provided by Western Carolina and Westco "is or may be inadequate" and ordered a general investigation and a show cause proceeding. This proceeding, which still remains open, contains numerous orders relating to the Commission's investigation into the service of the two companies and their efforts to meet the Commission's objectives.

In an Order dated July 15, 1970, granting a rate increase, the Commission listed 17 requirements for improving service with which Western and Westco were ordered to comply. In that docket the Commission found the service of the companies to be "insufficient and inadequate." In an Order in Docket No. P-78, Sub 25, issued on November 21, 1972, the Commission found the companies' service once again to be inadequate and stated:

> "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."

In this docket the Commission, as a result of the inadequate service, established rates which were lower than those rates which would have been approved if the service had been adequate.

In Docket No. P-78, Sub 32, in an Order issued on May 1, 1975, the Commission found as a fact that, while the company had made significant and continuing improvements in its level of service, such level of service continued to be insufficient and inadequate, particularly in the company's Western District. In this docket the Commission found it necessary once again to set rates which were lower than those rates which would have been approved if the service were adequate.

The Commission recognizes that there have been improvements in the quality of service provided by Westco Telephone Company. However, the history of the problems with the quality of telephone service provided by the

company is long and arduous, as shown by the Commission's Show Cause Order issued in 1967 and the further Orders requiring service improvements in 1970, 1972, 1974, and 1975. This Commission has exercised constant effort since 1967 to persuade and require this company to bring its service to an adequate and efficient level. The fact remains, however, that Westco Telephone Company is not now providing the adequate level of service required by statute, the minimum level required by specific Commission Order, and the level of service to which the subscribers in its franchised service area are entitled. As Mr. Clemmons testified, major problems still exist with regard to the efficient handling of subscriber trouble reports and service orders. The Commission's objective is that at least 95% of all subscriber trouble reports received each month should be cleared within 24 hours. The Sylva, Franklin, and Murphy service centers failed to meet this objective during 1975, as did the total Western District. The Marion and Weaverville service centers met the objective, as did the total Eastern District. The impact of the Western District caused the total company to fail to meet the objective. The Commission has also established an objective that 90% of all regular service orders should be completed within five working days. The 1975 average for the total company was 62.0%. During 1975 there were no service centers which met the objective.

Nor has the company reached the efficient level of operation that is necessary to establish consistently good quality service. When compared to the past and present performance of well-operated telephone companies in North Carolina, the record of Westco Telephone Company leaves much to be desired. The constant changes in management and company organization in North Carolina during the past eight years have hindered the company's attaining an adequate level of service. These changes appear to arise from a desire on the part of the parent company, Continental Telephone Corporation, to constantly shift management for corporate purposes rather than to establish an efficient North Carolina organization. The most recent change in management, the installation of Mr. Morris as president, has occurred since the company's last rate case in 1975. Mr. Morris is the company's fifth president since the company was acquired by Continental in 1964. Mr. Morris will not reside in North Carolina. He will not be devoting his full time to Westco Telephone Company. Mr. Morris' duties as manager of Mid-South Division of Continental Telephone Corporation also involve responsibilities for operating companies in Tennessee and Kentucky. The Commission is strongly of the opinion that Westco Telephone Company needs an operations manager who can devote his full energies to the North Carolina company.

The attitude of company management expressed during this case is not any more impressive than in the previous case. The managerial and organizational changes which have occurred since the 1975 rate case renew our concern about

the capability of Westco Telephone Company to operate efficiently and meet the service needs of its North Carolina subscribers.

The Commission calls attention to its Orders in Docket Nos. P-58, Sub 102, and P-78, Sub 37. In its Order of December 13, 1975, which was issued pursuant to G.S. 62-37(b), the Commission concluded that an examination of utility management techniques, management personnel, and company operations by competent and qualified independent management consultants may yield benefits to the rate-paying public of this State. The Commission selected Western Carolina Telephone Company and Westco Telephone Company for such an audit. By Order issued April 26, 1976, the Commission designated Theodore Barry and Associates to conduct a management performance audit of Western and Westco "to thoroughly examine the efficiency and effectiveness of management decisions and other factors." The Commission is of the opinion that such management performance audit will benefit both the company and the ratepayers and will assist the company in reaching the overall level of service required by this Commission.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13-17

Cost of Capital

The Commission adopts the capital structure presented by Company Witness Hanley which was the company's actual capital structure as of March 31, 1975. This capital structure reflects intrastate book common equity of $5,066,130.

The capital structure set out in Finding of Fact No. 14 represents a capital structure in which the fair value increment of $976,000 has been added to the book common equity of $5,066,130. This capital structure, which shows the fair value equity of the company, is reasonable and is adopted by the Commission to determine the cost of the company's fair value equity.

All three rate of return witnesses agreed that the cost of long-term debt and preferred stock was 5.29% and 10.25%, respectively, and the Commission finds and concludes the same. Company Witness Hanley recommended a return on equity of 14.5%, based on his study of historical price-earnings ratios, market-to-book ratios, and returns on equity of "comparable" companies, plus a consideration of the general economic climate.

Staff Witness Currin recommended a return on equity of 13.30% to 13.77%, based upon his application of the double leverage theory to Continental and a consolidated Western and Westco. The cost of equity to Continental was calculated using the Discounted Cash Flow formula.

Mr. Baughcum, the Attorney General's witness, used the Discounted Cash Flow and double leverage formulae to estimate the cost of equity to Western. He then applied the double leverage formula from Western to Westco. Using a different time frame, growth estimation technique, and "triple" leverage, he recommended a return on equity of 6.29%.

Based upon the evidence in the case, the Commission finds and concludes that Westco's cost of book common equity would be 13.0%, assuming that the service provided by the company had been adequate. In Finding of Fact No. 12, however, the company's service was found to be inadequate.

The failure of Westco Telephone Company to provide adequate, efficient, and reasonable service is a material factor to be considered in establishing the fair rate of return. This is especially true in view of the fact that the Commission's previous Orders requiring service improvements and minimum service objectives have not been met. In the previous rate case (Docket No. P-78, Sub 32) the Commission penalized the company 1.5% on equity earnings because of inadequate service. The rate of return on book common equity granted in this case relative to what the Commission would have granted had the service been adequate reflects a penalty of 2.0%. This penalty lowers the return on book common equity from 13.0% to 11.0%, thereby reducing by $221,999 the revenues that would have been granted under a 13.0% return. The company's continued failure to provide adequate service after persistent and specific efforts by this Commission in previous cases justifies this penalty. The Commission has granted rate increases to this company in each of the two (2) preceding rate cases even though the service was found inadequate.

Because of the further deterioration of the company's financial condition, the rates are again being increased in this case. However, the Commission cannot ignore the inadequacies of service and the continued failure of management to develop an efficient operation in North Carolina. The Commission believes that the 2.0% penalty is the minimum that should be prescribed at this time. Westco and Continental should take due notice that if degradation of service occurs from the present levels a greater penalty would be justified.

The Commission must also take into account the company's fair value increment of $976,000 and the effect of adding this increment to the book equity component of the company's capital structure. In so doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel. Utilities, et al. v. Duke Power Co., 285 N. C. 377 (1974), wherein it is stated:

". . . the capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at

least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133 (b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration in its findings on rate of return the reduction in risk to Westco's equity holders and the protection against inflation which is afforded by the addition of the $976,000 fair value increment to the book common equity component. Considering the current investment market and Westco's expansion and upgrading of service to its ratepayers, the Commission concludes that a rate of return of 9.47% on fair value equity, including both book common equity and the fair value increment, is fair and reasonable. The 9.47% return on fair value equity and the returns of 5.29% on total debt and 10.25% on preferred stock yield a rate of return on Westco's fair value property of 6.65%. The actual dollar return yielded by the rate of return of 9.47% on the fair value equity will yield a rate of return of 11.30% on book common equity, reflecting the incremental dollars added for fair value. Although the rates approved herein are less than those which would be deemed a fair return upon the fair value of the company's properties were the service adequate, these rates will yield a return sufficient to pay the interest on the company's indebtedness and a substantial dividend upon its stock.

Had the Commission found that the company was providing an adequate level of service, a return of 7.3% on fair value of property, 13.0% on book common equity, and 11.15% on fair value equity would be just and reasonable for the company. The actual dollar return which would have been yielded by a

return of 11.15% on fair value equity would have yielded a rate of return of 13.30% on book common equity.

The following schedules show the derivation and application of the findings hereinabove and are to be incorporated as part of those findings:

SCHEDULE I
WESTCO TELEPHONE COMPANY
DOCKET NO. P-78, SUB 35
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED MARCH 31, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $ 2,374,417 | $ 617,503 | $ 2,991,920 |
| Toll service | 1,353,493 | | 1,353,493 |
| Miscellaneous | 79,602 | | 79,602 |
| Uncollectibles | (25,130) | (4,076) | (29,206) |
| Total operating revenues | 3,782,382 | 613,427 | 4,395,809 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 624,218 | | 624,218 |
| Traffic expenses | 82,088 | | 82,088 |
| Commercial expenses | 248,758 | | 248,758 |
| General office salaries and expenses and other expenses | 442,294 | | 442,294 |
| Total operating expenses | 1,397,358 | | 1,397,358 |
| Depreciation and amortization | 886,380 | | 886,380 |
| Taxes other than income | 427,334 | 36,806 | 464,140 |
| State income tax | 36,791 | 34,597 | 71,388 |
| Federal income tax | 261,627 | 260,171 | 521,798 |
| Interest on customer deposits | 1,871 | | 1,871 |
| Total operating revenue deductions | 3,011,361 | 331,574 | 3,342,935 |
| Net operating revenues | 772,892 | 281,853 | 1,054,745 |
| Net operating income for return | $ 771,021 | $ 281,853 | $ 1,052,874 |

| | | | |
|---|---|---|---|
| **Investment in Telephone Plant** | | | |
| Telephone plant in service | $16,829,046 | | $16,829,046 |
| Less: Accumulated provision for depreciation | 2,352,922 | | 2,352,922 |
| Excess profits earned by Superior Continental Corporation and Vidar Corporation | 62,000 | | 62,000 |
| Net investment in telephone plant in service | $14,414,124 | | $14,414,124 |
| **Allowance for Working Capital** | | | |
| Materials and supplies | $ 89,963 | | $ 89,963 |
| Cash | 16,602 | | 16,602 |
| Average prepayments | 6,066 | | 6,066 |
| Compensating bank balance | 345,473 | | 345,473 |
| Less: Average operating tax accruals | (75,171) | | (75,171) |
| Customer deposits | (40,371) | | (40,371) |
| Total allowance for working capital | $ 442,562 | | $ 442,562 |
| Net investment in telephone plant in service plus allowance for working capital | $14,856,686 | | $14,856,686 |
| Fair value rate base | $15,832,686 | | $15,832,686 |
| Rate of return on fair value rate base | 4.87% | | 6.65% |

SCHEDULE II
WESTCO TELEPHONE COMPANY
DOCKET NO. P-78, SUB 35
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED MARCH 31, 1975

| | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Capitalization | | | | |
| Total debt | $ 8,423,741 | 53.21 | 5.29 | $ 445,616 |
| Preferred stock | 341,704 | 2.16 | 10.25 | 35,025 |
| Common equity | | | | |
| Book $5,066,130 | | | | |
| Fair value increment 976,000 | 6,042,130 | 38.16 | 4.81 | 290,380 |
| Cost-free capital | 1,025,111 | | | |
| Total | $15,832,686 | 100.00 | | $ 771,021 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $ 8,423,741 | 53.21 | 5.29 | $ 445,616 |
| Preferred stock | 341,704 | 2.16 | 10.25 | 35,025 |
| Common equity | | | | |
| Book $5,066,130 | | | | |
| Fair value increment 976,000 | 6,042,130 | 38.16 | 9.47 | 572,233 |
| Cost-free capital | 1,025,111 | | | |
| Total | $15,832,686 | 100.00 | | $1,052,874 |

| | | |
|---|---|---|
| Required net increase for return | ($1,052,874 - $771,021) | $ 281,853 |
| Associated increase in taxes other than income | $ 36,806 | |
| Associated increase in state income tax | 34,597 | |
| Associated increase in federal income tax | 260,171 | |
| Associated increase in revenue deductions | | 331,574 |
| Required increase in total operating revenues | | 613,427 |
| Associated uncollectibles | | 4,076 |
| Required increase in gross operating revenues | | $ 617,503 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Rates and Rate Design

Mr. Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified regarding rate and charge design and other factors relating to these items. He opposed the company's plan to increase zone charges, contending that it takes like facilities to complete local calls between urban and rural subscribers, thereby making the practical costs the same, regardless of who originates the call. He stated that, after reviewing the company territory, he recommended that the zone charges remain at the present level. Regarding base rate areas, he testified that he and the company concurred that there were areas that needed to be included in the base rate areas and that the Applicant had submitted proposed enlargements which he believed were reasonable base rate area extensions. Mr. Chase testified that the Applicant has many seasonal subscribers who have their service suspended or discontinued thereby paying only part of the year. His opinion was that these subscribers are not paying their fair share and are thus burdening the other ratepayers and that the Applicant should submit a tariff for the Commission's consideration to insure that these seasonal subscribers would be required to take service under a contract for a 12-month period paying no less than 9 months' rental in any 12-month contract period. Regarding numerous new residential developments, he stated he believed it would be advantageous to the overall

body of ratepayers if a requirement was placed on the developers to pay for the construction necessary in the development before the facilities are placed, with a refund provision. Mr. Chase recommended that the spread between one- and four-party service be increased because it may be advantageous due to the low station density in the area. Regarding a surcharge in intrastate toll service, he testified that it would be undesirable to have other than uniform intrastate toll rates and that perhaps a 3-way split between interstate and intrastate local and intrastate toll should be considered. He testified that he believed the company's proposal to increase the local coin telephone messages from 10¢ to 20¢ was reasonable. Regarding service charges, he stated the Commission would probably approve new service charge tariffs for Western Carolina and for Westco Telephone Companies as they were required to file in Docket Nos. P-58, Sub 93, and P-78, Sub 32.

Commission Staff Witness Charles D. Land proposed that charges for directory assistance (D.A.) inquiries be considered. He recommended that a charge of 20¢ per D.A. call be imposed after an allowance of five (5) free calls monthly. Mr. Land recommended that in addition to the five-call allowance one free toll D.A. inquiry within the 704 area be allowed for each sent paid 704 area toll call completed during the same billing month. Mr. Land recommended that pay stations and services furnished for individuals who are blind or physically handicapped to the extent they are unable to use the directory be exempted from D.A. charges.

Mr. Land stated that the company's D.A. inquiries from the Eastern District are answered by Southern Bell at Asheville and that the Western District inquiries are answered by Western Carolina operators at Sylva. He observed that the costs to Western Carolina to answer D.A. inquiries at Sylva for Westco subscribers are approximately 18¢ per call and that Westco should pay Western that amount instead of the 10¢ presently contemplated. He stated that the economic benefit of D.A. charging should be 17¢ per main station monthly and that this was calculated from an estimated gross cost savings of $31,274 and estimated revenues of $7,492. In addition to those amounts, Westco would pay Bell an additional $26,345 and Westco would pay Western $2,671 less as a result of operator office agreement changes. Also, Westco will pay Western $9,864 more to adjust the per call charge from 10¢ to 18¢.

Mr. Edwin H. Guffey, General Commercial Manager of Westco Telephone Company, testified regarding the company's proposals to increase the spread between the 1- and 4-party rates in an attempt to slow down regrades so they can be worked on a more orderly basis and utilize sound economic engineering practices regarding zone charges. He testified that these charges should be increased to a level which would more closely compensate for the cost that is associated with providing service outside the base rate

area. He testified that the Old Fort and Marion exchanges have exceeded the top limits of their present rate group and should be moved from Group 2 to Group 3. Regarding service connection charges, he stated that the company would be in a position by year-end 1975 to implement a "tiered" service connection charge pricing to produce the same dollar amount of revenue that it is proposing in this application. He testified that increases in directory listing charges were needed to partially compensate for increased costs. In regard to raising the local message charge from 10¢ to 20¢ on coin telephones, he stated this proposal would allow the increased costs to be recovered from those who actually use the service. He testified that increased charges in private line service would relate more closely to the value of this service.

Mr. Michael B. Esstman, Assistant Vice President - Revenues, of the Continental Telephone Service Corporation - Eastern Region, testified that a toll surcharge was necessary for Western and Westco because the Southern Bell intrastate toll rate of return does not reach the cost of capital of Western and Westco. He computed that Western and Westco will receive an 8.81% rate of return on toll business as compared to a 10.40% required state toll return, a return deficiency of 1.59%. He testified that the company is requesting a 12.3% surcharge on all state toll bills to recover this deficiency; yet the company will still settle with Southern Bell (on a cost basis) based only on uniform message toll rates. He stated that the surcharge was suggested in order to keep local exchange rates as low as possible.

Based on the foregoing testimony and the exhibits in support thereof, the Commission reaches the following conclusions with regard to the rate structure design to be approved for Westco Telephone Company.

(1) Basic Rate Schedule:

(a) The schedule of rates and charges and the service charge tariff set forth in Appendix "B" attached to this Order are found to be just and reasonable.

(b) The Commission finds it reasonable to expand the rate difference between one- and four-party service as an experiment to determine if plant facilities can be used in a more efficient manner in respect to the subscribers' interests.

(2) Coin Telephone Service:

The Commission finds that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been

numerous increases in the cost of providing this service and that the charge has not been increased for over 20 years. Because of the desire to alleviate further increases in basic service, it is concluded that the local coin call increase is necessary at this time.

(3) Service Charges:

The Commission concludes that Westco Telephone's service charges should be increased to a level which more closely approximates the level of costs involved in doing the work, and the charge applicable for each request should depend on the actual work functions involved. The increased charges should be implemented using the "tiered" format as proposed by the Staff.

(4) Supplemental Services and Equipment:

The Commission finds that the provision of supplemental services and equipment should not result in a burden upon the subscribers to basic service and that the rates should be set accordingly.

(5) Rural Zone Charges:

The Commission concludes that zone charges should remain at their present level.

(6) Base Rate Areas:

The Commission concludes that the base rate areas should be extended in accordance with the revisions proposed by the company in its letter of January 5, 1976.

(7) Seasonal Service:

The Commission concludes that the seasonal subscriber situation, as it relates to the annual contribution these subscribers make to the overall revenue requirements of the company, needs to be considered further. Therefore, the Commission in this proceeding will order the Applicant to file tariff provisions covering this matter for the Commission's consideration.

(8) New Residential Developments:

The Commission finds that the matter of new residential developments most likely will affect the overall body of ratepayers and therefore will order the Applicant, in this proceeding, to file tariffs for the Commission's consideration which would reflect the requirement of the developers to pay the

construction charges applicable prior to the placement of the facilities, with refund provisions.

(9) Intrastate Toll Surcharge:

The Commission concludes that the application of a surcharge on intrastate toll calls should not be used as the method of recovering a deficiency in the company's intrastate toll rate of return. The Commission believes this relief should be found by other means, namely, by the company's proposing increased toll charges.

(10) Directory Assistance Charges:

Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific services used. It is unquestionable that a vast number of unnecessary calls are made for information that is readily available or can be made readily available on an ongoing basis. This practice is a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to maintain telephone service. An estimated reduction of 60% to 70% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the firm opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that an allowance of five (5) free calls monthly will adequately provide for the reasonable needs of nearly all subscribers and that a charge of 20¢ for each local directory assistance request in excess of five (5) calls monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home area code.

The Commission is of the opinion that a 60% reduction in local directory assistance calling may reasonably be expected. This would result in an expense increase of $2,264 and increased revenues of $7,494

which the Commission has considered in determining the revenue requirements for Westco.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from D.A. charges. Westco is being ordered herein to collect data on the use of this exemption to enable the Commission, at the end of the experimental period for D.A. charging, to fully evaluate the needs of and uses made by handicapped individuals concerning directory assistance services. The Commission recognizes that a uniform, statewide D.A. charging plan is ultimately desirable and that the D.A. charging plans approved for Westco (herein), Central Telephone Company, and Southern Bell differ from the one approved for Carolina Telephone and Telegraph Company. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Westco Telephone Company, be, and hereby is, authorized to increase its North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $617,503 based upon stations and operations as of March 31, 1975, as hereinafter set forth in Appendix "A."

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendix "A" hereto attached, which will produce additional gross revenues of $617,503 from said end of test period customers, be, and are hereby, approved to be charged and implemented by Westco Telephone Company, effective on service to be rendered on and after the date of this Order, except as noted hereinafter.

3. That Westco shall file, within 7 days of this Order, the necessary revised tariffs reflecting the above increases, decreases and regulations, said tariffs to be effective as of the dates prescribed above.

4. That Westco shall implement the service charge tariff attached hereto as Appendix "B" effective on service to be rendered on and after the date of this Order.

5. That Westco is authorized to begin directory assistance charges in accordance with Appendix "A" attached to this Order after June 30, 1976, and after the NOTICE attached as Appendix "C" is given to its subscribers. That Westco shall, before June 15, 1976, mail as a bill insert or direct mailing the NOTICE attached as Appendix "C" to all subscribers and shall, commencing July 15, 1976, mail as a bill insert the REMINDER attached as Appendix "C" to all subscribers. Should the company be unable to initiate directory assistance charges on July 1, 1976, it should so advise the Commission and make appropriate changes in the dates in the NOTICE, the REMINDER, and the mailing dates given hereinabove.

Further, that Westco shall use the directory information relating to directory assistance charges as included in Appendix "C" to place in its telephone directories.

6. That Westco shall file monthly reports on the conversion of coin pay stations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

7. That Westco shall offer the option to residential Applicants or subscribers to pay for service charges (installation, moves, changes, etc.) where the total exceeds $15.00 in two equal payments over the first two billing periods after service work is completed unless Applicant is a known credit risk to the company, and Westco shall include this provision in its tariff filings.

8. That Westco shall provide for one representative month each quarter for the three quarters ending September 30, 1976, December 31, 1976, and March 31, 1977, a report showing:

(a) The number and percent of subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D.A. inquiries per line per month.

(b) The number and percent of local directory assistance inquiries by subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D.A. calls per month.

(c) The number of Home Numbering Plan Area toll D.A. inquiries per month.

(d) The monthly number of local directory assistance inquiries from pay stations.

(e) For exempted services furnished for handicapped individuals, the same data requested as in (a) and (b) above.

(f) The number and percent of subscribers billed for directory assistance inquiries.

(g) The revenue billed for directory assistance inquiries.

(h) A general report indicating the date(s) of implementation of directory assistance charges, complaints received, and problems encountered (i.e., traffic, accounting, billing, adjustments, etc.).

(i) The percent and amount of reduction in traffic expense over or under what was estimated for the same month had directory assistance charges not been in effect.

The above data should be based on actual experience for one representative month of the quarter and should be received by the Commission no later than the last day of the month following the end of the quarter.

9. That Westco shall file with the Commission on or before July 15, 1976, a tariff for the Commission's consideration which will reflect the requirement of developers to pay the construction charges applicable to their new residential developments prior to the placement of the facilities, with refund provisions.

10. That Westco shall file with the Commission on or before July 15, 1976, a tariff for the Commission's consideration which will reflect the requirements of seasonal subscribers to contract for service for a 12-month period and to pay no less than 9 months at the full rate during this contract period.

11. That Westco shall file with the Commission on or before July 15, 1976, revised exchange service area maps to reflect those base rate area extensions in accordance with those revisions proposed by the company in its letter of January 5, 1976, in said docket.

12. That the service objectives established by the Commission in Docket No. P-78, Sub 32, shall remain in full force and effect and that the Commission Staff shall continue to evaluate Westco Telephone Company's progress towards providing an adequate and efficient level of service in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of April, 1976.

NORTH CARCLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
WESTCO TELEPHONE COMPANY
DOCKET NO. P-78, Sub 35

EXCHANGE RATE GROUPS
Monthly Flat Rates

| | Main Stations and Group Equivalents | Residence 1-Pty. | Residence 2-Pty. | Residence 4-Pty. | Business 1-Pty. | Business 2-Pty. | Business 4-Pty. |
|---|---|---|---|---|---|---|---|
| 1 | 0- 4,000 | $10.20 | $ 9.40 | $ 7.90 | $25.30 | $23.80 | $21.30 |
| 2 | 4,001- 8,000 | 10.60 | 9.80 | 8.30 | 26.30 | 24.80 | 22.30 |
| 3 | 8,001-16,000 | 11.00 | 10.20 | 8.70 | 27.30 | 25.80 | 23.30 |
| 4 | 16,001-32,000 | 11.40 | 10.60 | 9.10 | 28.30 | 26.80 | 24.30 |
| 5 | 32,001-Up | 11.80 | 11.00 | 9.50 | 29.30 | 27.80 | 25.30 |

| Exchange | Applicable Local Exchange Rate Group |
|---|---|
| Bakersville | 2 |
| Burnsville | 1 |
| Fontana | 1 |
| Garden City | 3 |
| Glenwood - Providence | 3 |
| Guntertown | 1 |
| Hayesville | 2 |
| Hot Springs | 1 |
| Marshall | 1 |
| Mars Hill | 1 |
| Micaville | 1 |
| Murphy | 2 |
| Robbinsville | 1 |
| Sevier | 3 |
| Suit | 2 |

See official files for complete Appendices "A," "B," and "C."

DOCKET NO. P-58, SUB 99

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina Telephone Company for an Adjustment of its Intrastate Rates and Charges ) ORDER APPROVING INCREASES IN RATES AND CHARGES

HEARD IN: Courtroom of the Jackson County Courthouse, Sylva, North Carolina, on February 10 and 11,

1976, and in the Ninth Floor Courtroom, Buncombe County Courthouse, Asheville, North Carolina, on February 12 and 13, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners Ben E. Roney and Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina 27602; Philip J. Smith, Van Winkle, Buck, Wall, Starnes, Hyde & Davis, P. A., Attorneys at Law, P. O. Box 7376, Asheville, North Carolina 28801

For the Intervenors:

Robert Gruber, Assistant Attorney General, and Jerry Fruitt, Associate Attorney General, North Carolina Department of Justice, Justice Building, Raleigh, North Carolina 27602, Appearing for: The Using and Consuming Public

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, and Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On October 8, 1975, Western Carolina Telephone Company filed an Application with the Commission for authority to increase its rates and charges for local telephone service in North Carolina. Western Carolina alleged in its Application that the company was last granted a rate increase on April 30, 1975, in Docket No. P-58, Sub 93. This increase was based upon the operating experience of the company during the 12 months ending December 31, 1973. The company further alleged that, as a result of increased costs and additional investment in plant since 1973, the present rates are insufficient to provide the company a fair and reasonable rate of return on the fair value of its property. The Applicant alleged other matters in support of its Application.

On October 23, 1975, the Commission, being of the opinion that the proposed increases affected the public interest, declared the proceeding a general rate case, suspended the proposed rates and charges, required the Applicant to give notice of the increases to the public and to its customers, and set the matter for investigation and hearing. The test year for the proceeding was the 12 months ending March 31,

1975. The Application was set for hearing at the following times and places:

Sylva, North Carolina, on February 10 and 11, 1976, at 9:00 a.m. in the Courtroom, Jackson County Courthouse.

Asheville, North Carolina, on February 12 and 13, 1976, at 9:00 a.m. in the Ninth Floor Courtroom, Buncombe County Courthouse, Courthouse Plaza.

[On October 8, 1975, Westco Telephone Company also filed an Application for increases in its rates and charges for local telephone service in North Carolina. Western Carolina wholly owns Westco Telephone Company. By Order issued October 23, 1975, the Commission set Westco's Application for hearing at the same times and places scheduled for Western Carolina.]

The Attorney General of North Carolina filed a Notice of Intervention on October 27, 1975. An Order recognizing the Intervention of the Attorney General was issued by the Commission.

Other matters which are reflected in the Official File of this docket include:

(1) On November 12, 1975, the Commission issued an Order extending the time for the company to file the Service Charge Tariff in Docket No. P-58, Sub 93, until the company's proposed increases in this docket are concluded;

(2) On December 5, 15, and 19, 1975, the company filed data responses in compliance with Commission Orders.

The proceeding came on for hearing as scheduled in Sylva and Asheville. The company presented the testimony of the following witnesses:

(1) Eugene E. Morris, President of Western Carolina Telephone Company, testified on the Application of the company, the service to its customers, and the need for additional revenues.

(2) Edwin H. Guffey, General Commercial Manager, testified on rate design and the proposed rates, including an increase in coin telephone charges from 10¢ to 20¢.

(3) Carolyn Holt, Revenue Requirements Manager, Continental Telephone Service Corporation, testified on the financial and accounting records of the company, including the company's original cost rate base, its revenues, and its expenses.

(4) Michael B. Esstman, Assistant Vice President - Revenues, Continental Telephone Service Corporation, testified on the company's intrastate toll revenues.

(5) John C. Goodman, Assistant Vice President and Manager of the Public Utilities Division of the American Appraisal Company, Inc., testified on the appraisal study of the company's replacement cost.

(6) Frank J. Hanley, Senior Vice President, Associated Utilities Services, Inc., testified on the cost of capital and the fair rate of return of the company.

(7) James Skidmore, Continental Supply and Service Corporation, testified on Continental's pricing policies to its affiliated operating companies.

The Commission Staff offered the testimony of the following witnesses:

(1) Vern W. Chase, Chief, Telephone Rate Section, Engineering Division, testified on the company's proposed rates and rate design.

(2) Gene A. Clemmons, Chief Engineer, Telephone Service Section, Engineering Division, testified on the Staff's evaluation of service provided by Western Carolina Telephone Company.

(3) James S. Compton, Telephone Engineer in the Telephone Service Section, testified on the Staff's review of the company's plant engineering, plant margins, the reasonableness of plant investment, and the verification of plant expenditures.

(4) Benjamin R. Turner, Jr., Telephone Engineer in the Telephone Service Section, testified on the prices of equipment and plant purchased by Western Carolina Telephone Company as compared to the prices of similar equipment and plant purchased by other telephone companies operating in North Carolina.

(5) Nancy B. Bright, Staff Accountant, Accounting Division, testified on the intercorporate transactions between Western Carolina and the manufacturing subsidiaries of Continental Telephone Service Corporation.

(6) Charles D. Land, Senior Operations Engineer of the Operations Analysis Section, Engineering Division, testified on the company's proposed replacement cost and on directory assistance.

(7) Paul B. Goforth, Staff Accountant, Accounting Division, testified on the test period original cost net investment, revenues, expenses, and return on the original cost net investment and common equity.

(8) Hugh L. Gerringer, Telephone Engineer with responsibilities in telephone toll settlements, Engineering Division, testified on the apportionment of the company's North Carolina operations between interstate and intrastate

jurisdictions and the company's representative intrastate toll revenues for the test period.

(9) H. Randolph Currin, Jr., Rate Analyst in the Operations Analysis Section, Engineering Division, testified on the cost of capital and the fair rate of return to the company.

The Attorney General of North Carolina offered the testimony of Alan Baughcum, an economist for the North Carolina Department of Justice, who testified on the cost of capital to Western Carolina Telephone Company and the relationship of this cost to the company's fair rate of return.

The following public witnesses testified in Sylva at the consolidated hearings for Western Carolina and Westco Telephone Companies:

William C. Stump, Director of Business Affairs, Western Carolina University, Cullowhee, N. C.;
Dr. Arthur Justice, Cullowhee, N. C.;
Ed Bryson, President of Southwestern Technical Institute, Sylva, N. C.;
John Ashe, Business Manager, Southwestern Technical Institute, Sylva, N. C.;
Veronica Nicholas, Sylva, N. C.;
James D. Wilson, Superintendent, Jackson County Schools, Sylva, N. C.;
Mark Martin, Cashiers, N. C.;
Mrs. Robert Bradburn, Whittier, N. C.;
Robert A. Evans, Bureau of Indian Affairs, Cherokee, N. C.;
James Gilroy, Personnel Manager, Clifton Precision Company, Peachtree, N. C.;
Nancy Hall, Clifton Precision Company, Peachtree, N. C.;
Carl D. Moses, Hayesville, N. C.;
Jessie Cordell, Whittier, N. C.;
Grace Johnson, Whittier, N. C.; and
Lois Martin, Whittier, N. C.

The following public witnesses testified in Asheville at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Paul Garland, Principal, Buladean Elementary School, Bakersville, N. C.;
A. D. Harrell, Bakersville, N. C.;
Earl Street, Bakersville, N. C.;
Fred Garland, Bakersville, N. C.;
George Conrad, Bakersville, N. C.;
Howard Linse, Woodland Hills, N. C.;
Betty Hulst, Weaverville, N. C.;
Don Turman, Yancey County Committee on Aging, Burnsville, N. C.;
Grace Maynor, Weaverville, N. C.;
Worth Crow, Yancey County, N. C.;

Bayard Howell, Burnsville, N. C.;
Gail Touger, Burnsville, N. C.;
Gladys Sandlin, Burnsville, N. C.;
David Freeman, Weaverville, N. C.; and
Velma McCurry, Weaverville, N. C.

Based on the verified Application and exhibits, the testimony and exhibits presented during the public hearings, and the previous Commission Orders in Docket No. P-58 concerning the quality of service provided by Western Carolina Telephone Company, the Commission makes the following

FINDINGS OF FACT

(1) Western Carolina Telephone Company is a duly organized North Carolina corporation and is a subsidiary of Continental Telephone Corporation and is engaged in North Carolina in furnishing telephone communications service as a franchised public utility under a Certificate of Public Convenience and Necessity granted by this Commission.

(2) Western Carolina Telephone Company has filed Application with the Commission seeking an increase in its rates and charges for intrastate telephone service rendered in its franchised area. The total increases in rates and charges sought by Western Carolina would produce approximately $1,846,369 in additional gross annual revenues, based on the test year level of operations. Western Carolina last received an increase in its intrastate rates and charges on April 30, 1975, based on test year ending December 31, 1973.

(3) The test year for this proceeding is the 12 months ending March 31, 1975.

(4) The original cost investment of the North Carolina intrastate plant of Western Carolina is $30,342,280. The accumulated provision for depreciation is $3,073,999. This original cost of intrastate plant of Western Carolina includes $203,000 of plant that represents excess cost of plant purchased from Superior Continental Corporation and Vidar Corporation, the North Carolina division's affiliated supplier, and it also includes $185,453 of plant that represents the cost of plant not in service at Andrews and Franklin Exchanges which had not been removed from the plant in service accounts at March 31, 1975. The reasonable original cost less depreciation of plant in intrastate service is $26,879,828.

(5) Western Carolina's intrastate net investment in telephone plant in service includes excess profits of $203,000 resulting from intercorporate transactions between Western Carolina Telephone Company and Superior Continental Corporation and Vidar Corporation.

(6) The reasonable replacement cost less depreciation of Western Carolina's intrastate plant in service is $29,197,000.

(7) The reasonable allowance for working capital is $602,558.

(8) The fair value of Western Carolina's utility plant used and useful in providing intrastate telephone service in North Carolina should be derived from giving 60% weighting to the reasonable original cost less depreciation and 40% weighting to the reasonable replacement cost less depreciation of Western Carolina's utility plant. By this method, using the depreciated original cost of $26,879,828 and the depreciated replacement cost of $29,197,000, the Commission finds that the fair value of the utility plant devoted to intrastate telephone service in North Carolina is $27,806,628. The addition of a reasonable allowance for working capital of $602,558 yields a reasonable fair value of Western Carolina's intrastate property in service of $28,409,386. This fair value includes a fair value increment of $927,000.

(9) The surcharge on billed intrastate toll revenues proposed by the company is inconsistent with the intrastate toll policies adopted by this Commission.

(10) The approximate gross revenues net of uncollectibles for Western Carolina for the test period are $7,498,024 under present rates and under company proposed rates would have been $9,336,084 after annualization to year-end revenues.

(11) The level of Western Carolina's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $5,752,592, which includes an amount of $1,453,632 for actual investment currently consumed through reasonable actual depreciation, after annualization to year-end level.

(12) The overall quality of the telephone service provided by Western Carolina Telephone Company is inadequate.

(13) The capital structure of Western's North Carolina intrastate operations at March 31, 1975, reflecting book common equity is as follows:

| | Percent |
|---|---|
| Total debt | 49.10% |
| Preferred stock | 4.10% |
| Common equity | 38.30% |
| Cost-free capital | 8.50% |
| | 100.00% |

(14) When the excess of the fair value rate base over original cost net investment (fair value increment) is added

to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

| | Percent |
|---|---|
| Total debt | 47.50% |
| Preferred stock | 3.97% |
| Fair value common equity | 40.31% |
| Cost-free capital | 8.22% |
| | 100.00% |

(15) The company's original cost equity ratio is 38.30%, and the fair value common equity ratio is 40.31%.

(16) The failure of Western Carolina to provide adequate telephone service is a material factor to be considered in establishing the fair rate of return. The company's proper embedded cost of total debt is 7.86%. The proper embedded cost of the company's preferred stock is 7.17%. The fair rate of return which should be applied to the fair value equity is 10.37%. The 10.37% return on fair value equity and the returns of 7.86% on total debt and 7.17% on preferred stock yield a rate of return on Western's fair value property of 8.20%.

If the service of Western Carolina had been adequate, a return of 8.95% on fair value property and 12.23% on fair value equity would be just and reasonable for the company.

(17) Western must be allowed an increase in annual local service revenues of $1,277,071 to allow the company the opportunity, through prudent and efficient management, to earn the 8.20% return on the fair value of its property. This increased revenue requirement is based upon the fair value of the property, the reasonable test year operating expenses, and the revenues as previously determined.

(18) The schedule of rates and charges and the service charge tariff set forth in Appendices "A" and "B" attached to this Order are found to be just and reasonable, in that the schedule will generate additional annual local service revenues of approximately $1,277,071. The charging for directory assistance is an appropriate means of requiring those subscribers who use the local directory assistance service to pay a portion of the costs incurred to provide the service.

## EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, AND 3

The evidence for Findings of Fact Nos. 1, 2, and 3 comes from the verified Application of the company, its testimony and exhibits, and the Official File in this docket. These findings are jurisdictional and were not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Original Cost Plant

Company Witness Holt and Staff Witness Goforth presented testimony and exhibits concerning the original cost of Western Carolina's intrastate net telephone plant in service. The following chart summarizes the amount which each of the witnesses contends is proper for this item:

| Item | Company Witness Holt Per Exhibits (a) | Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Investment in telephone plant in service | $29,997,997 | $30,342,280 | $30,156,827 |
| Reserve for depreciation | 3,214,696 | 3,278,292 | 3,073,999 |
| Excess profits | | | 203,000 |
| Net telephone plant in service | $26,783,301 | $27,063,988 | $26,879,828 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. She stated that if the intrastate allocation factors based on a cost separations study for the twelve months ended June 30, 1975, had been available when she filed her testimony and exhibits, she would have used the intrastate factors based on the twelve months ended June 30, 1975. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors; however, column (b) above shows telephone plant in service presented by Witness Holt restated to reflect the June 30, 1975, intrastate allocation factors. Staff Witness Goforth used the factors from the June 30, 1975, cost separations study. The Commission concludes that the factors from the June 30, 1975, cost separations study should be used to allocate North Carolina combined plant in service, depreciation reserve, revenues, and expenses to intrastate operations.

The Commission will now discuss the differences between amounts claimed by Witness Holt adjusted for 1975 cost separations factors in column (b) above and the amounts claimed by Witness Goforth in column (c) for each item included in arriving at net telephone plant in service. The first item of difference is the amount each witness includes for investment in telephone plant in service. This difference results from the fact that Staff Witness Goforth removed from telephone plant in service accounts $185,453 of plant which was retired from service at the Andrews and Franklin exchanges but not recorded on the books of the company during the test year ended March 31, 1975.

G.S. 62-133(b)(1) requires the Commission to ascertain the fair value of the public utilities property used and useful in providing the service rendered to the public within this state. From the evidence presented in this proceeding, the $185,453 in plant investment located at the Andrews and Franklin exchanges was not used and useful at March 31, 1975. The Commission concludes that the amount of $30,156,827 is proper and will use this amount in calculating net investment in telephone plant in service.

The next item of difference is the amount to be deducted for the reserve for depreciation. Company Witness Holt did not propose a reduction in plant in service or reserve for depreciation for the unrecorded retirement of plant at the Andrews and Franklin exchanges. Staff Witness Goforth did reduce plant in service by $185,453 for this unrecorded retirement. He did not make a corresponding adjustment to the reserve for depreciation but on cross-examination agreed that the reserve for depreciation should be reduced by $185,453. He further reduced the reserve for depreciation and depreciation expense by $18,840 for depreciation recorded during the test year on excess profits included in the plant accounts and on plant retired from service at the Andrews and Franklin exchanges. The Commission concludes that these two adjustments to the reserve for depreciation are reasonable and that the reasonable amount to be included as the intrastate reserve for depreciation is $3,073,999.

The last item of difference in net telephone plant in service presented by the witnesses is an adjustment of $203,000 made by Staff Witness Goforth to eliminate from the plant accounts excess profits on plant purchased by Western Carolina from Superior Continental Corporation and Vidar Corporation. The Commission has found in Finding of Fact No. 5 that there exists in the plant accounts of Western Carolina Telephone Company $203,000 of excess profits on plant purchased from Superior Continental Corporation and Vidar Corporation. Therefore, the Commission concludes that Mr. Goforth's adjustment reducing Western Carolina's net investment in telephone plant in service by this amount is proper.

Based on all the testimony and evidence in this case, the Commission concludes that the reasonable original cost depreciated of Western Carolina's telephone plant in service is $26,879,828.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Excess Profits

The Commission's analysis of this finding involves the testimony of Company Witness Skidmore and Staff Witnesses Bright and Turner concerning affiliated company transactions and intercompany profits.

Ms. Bright testified that a very close, even if not less than arm's-length, relationship exists between Western Carolina and the manufacturing subsidiaries of Continental Telephone Corporation. The manufacturing subsidiaries of Continental are Superior Continental Corporation and Vidar Corporation. Western Carolina and Superior are subsidiaries of Continental Telephone Corporation. Vidar Corporation was also owned and controlled by Continental until early 1975 when substantially all of the assets of Vidar were sold to TRW, Inc.

Ms. Bright testified that the affiliated domestic telephone companies of Continental Telephone Corporation have purchased approximately 37.55% of the total volume of equipment manufactured and supply sales of the manufacturing affiliates during the eight-year period 1967 through 1974. During such eight-year period (1967-1974), Western Carolina purchased approximately 63.90% of its total purchases of equipment and supplies from the Continental manufacturing affiliates with a high-low range of 29.85% in 1967 to 78.41% in 1973. During the six-year period (1969 through 1974), the manufacturing affiliates earned an average return on average shareholder equity of approximately 23.73% on sales to Continental system domestic telephone companies, such as Western Carolina. The return on average shareholder equity ranged from a high of 34.28% in 1970 to a low of 18.78% in 1974.

Ms. Bright testified that she made a study of 80 companies, 78 of which comprise the electrical equipment/electronics industry as grouped by The Value Line Investment Survey and two other companies that manufacture telephone equipment. This study indicates that for the years 1973 and 1974 the weighted average earnings on equity of these 80 companies were 14.0% and 10.4%, respectively, and that these 80 companies had a weighted average debt percent to total capital for 1973 of 26.8% and for 1974 of 28.3%. Earnings of the manufacturing affiliates and the weighted average debt percent to total capital for 1973 and 1974 compare with the 80 companies, Western Electric Company, and Automatic Electric Company as follows:

| Company | Return on Net Worth | | Funded Debt % Total Capital | |
|---|---|---|---|---|
| | 1973 | 1974 | 1973 | 1974 |
| Western Electric Company | 10.5% | 9.6% | 23.9% | 23.4% |
| 80 Companies | 14.0% | 10.4% | 26.8% | 28.3% |
| Automatic Electric Company (General Telephone) | 16.2% | 14.5% | 10.2% | 9.0% |
| Manufacturing Affiliates 1/ (Superior and Vidar) | 24.2% | 6.9% | 40.8% | 37.5% |

1/ Weighted average.

Witness Turner presented a study of the prices paid for equipment and plant purchased by Western Carolina from affiliated manufacturers as compared to purchases of functionally equivalent equipment by other telephone companies operating in North Carolina. He presented twelve specific price comparisons of comparable items of equipment sold and exchanged between Western Electric and the Bell System as compared to prices charged by the manufacturing affiliates on sales to Western Carolina during 1974. All the price comparisons showed the Western Carolina cost to be higher than the Bell cost.

Mr. Turner presented eight specific price comparisons of comparable items of equipment sold and exchanged between General Telephone and Automatic Electric as compared to the prices charged by the manufacturing affiliates on sales to Western Carolina during 1974. Seven of the price comparisons showed the Western Carolina cost to be higher than the General cost, and one of the price comparisons showed the cost to be the same.

Mr. Turner also presented nine specific price comparisons of comparable items of equipment sold and exchanged between Central Telephone and Centel Service as compared to the prices charged by the manufacturing affiliates on sales to Western Carolina during 1974. Six of the price comparisons showed the Western Carolina cost to be higher than the Central cost; two of the price comparisons showed the cost to be the same; and one of the price comparisons showed the Western Carolina cost to be less than the Centel cost.

In rebuttal testimony, Mr. Skidmore testified concerning the prices which the Continental Supply and Service Corporation charges Western Carolina. The Continental Supply and Service Corporation is an affiliate of Western Carolina. Mr. Skidmore presented a comparison of Continental Supply's catalog prices with Automatic Electric's catalog prices during 1974. The price comparisons showed Continental Supply's prices to be lower than Automatic Electric's prices. Mr. Skidmore also presented price data which showed Continental Supply's catalog prices for several periods during 1974. These data showed that Continental's prices changed several times during 1974.

In the company's last rate case, Docket No. E-58, Sub 93, the Commission in its Order found that Western's net investment in utility plant in service should be adjusted to exclude $185,000 of "excess profits" surviving in net plant accounts at December 31, 1973, and that the company's affiliated suppliers should be allowed a 15.0% return on equity.

The Commission concludes that the Applicant's net investment in utility plant in service should be adjusted to exclude "excess profits" surviving in the net plant accounts at March 31, 1975, in the amount of $203,000. The

adjustment is based on the concept of limiting the earnings of the supplier affiliate to a reasonable rate of return on equity. The Commission concludes that, on transfers of equipment and supplies between the manufacturing affiliates of Continental and the Applicant, a return of 15% is a reasonable rate of return on equity.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Replacement Cost

Although the term "replacement cost" envisions replacing utility plant in accordance with modern design techniques and with the most up-to-date changes in the state of the art of telephony, replacement cost as presented by the company is founded upon the premise of the duplication of plant as is, with inefficiencies and outmoded design included. Even though normal obsolescence can be accounted for in proper depreciation treatment, the efficiencies of more modern plant are not incorporated in the trending process. Nevertheless, the Commission concludes that the replacement cost as proposed by the company and as amended by the Staff for the purported value of the replacement cost represents some evidence on the replacement cost of the plant in service. Accordingly, the weight given to the replacement cost in this proceeding is based upon a detailed evaluation of the methodology employed.

Company Witness Goodman testified on the net replacement cost new of the company's intrastate plant in service. Reproduction cost determined by the trending methods restates the investment in the existing plant in terms of current price levels. The replacement cost new of the plant was determined by adjusting the reproduction cost new by vintage years as found above for the effects of the differences in labor and equipment utilization efficiencies which would be realized if all of the plant were installed at one time rather than on a piecemeal basis as it was originally installed. The application of a mass impulse adjustment factor to the reproduction cost new of the surviving plant by year of placement results in the replacement cost new of the plant as presently constituted but installed at one time. The replacement cost new as defined above was then reduced by a depreciation factor which includes adjustment for mechanical deterioration, age, obsolescence, lack of utility, and other appropriate causes.

Commission Staff Witness Charles Land testified that he disagreed with Mr. Goodman's use of cable prices other than end of test period prices to base trend factors for older vintage years. Mr. Land introduced an exhibit showing that substantial decreases in cable prices paid by the company had occurred in late 1974 and early 1975. He stated that using March 31, 1975, cable prices as references for trending would result in much lower trended cost (approximately $2,300,000).

Mr. Land also disagreed with Mr. Goodman's estimates of condition percent. He observed that one of the most widely recognized methods of estimating condition percent was the ratio of remaining life to probable life new for each vintage year.

Mr. Goodman argued that replacement cost should be viewed from a valuation standpoint; whereas, Mr. Land argued that the law specified replacement cost, not replacement value.

The Commission concludes that March 31, 1975 (end of test period), price levels should be used as references for trending, provided these prices are "normal" and not temporarily inflated or deflated. The Commission further concludes, in view of the Supreme Court decisions, that replacement cost is a calculated cost and is not intended to be a market value concept. The Commission concludes that the replacement cost new of Western's North Carolina properties is $50,862,662 and that the replacement cost less depreciation is $38,951,000. The net intrastate replacement cost is $29,400,000. The Commission deducts from this amount $203,000 of excess cost of plant in service at March 31, 1975, resulting in a replacement cost less depreciation of $29,197,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Working Capital Allowance

Staff Witness Goforth and Company Witness Holt each presented a different amount for the working capital allowance.

Company Witness Holt testified that she used as the working capital allowance the North Carolina intrastate amount of materials and supplies at March 31, 1975, of $164,107 plus a computed allowance for working capital of $703,077. Witness Holt stated that she used a modified FPC formula in computing cash working capital which considers the lag in collection of revenues but does not consider the lag in payment of expenses. This computation includes prepayments at March 31, 1975, and compensating bank balance requirements necessary to maintain a bank line of credit.

Staff Witness Goforth presented a working capital allowance of $605,618 consisting of materials and supplies, a cash allowance of one-twelfth of operating expenses excluding depreciation and taxes, average prepayments and compensating bank balances, less average tax accruals, and end-of-period customer deposits. Mr. Goforth testified that the manner in which he determined his working capital allowance is the manner in which this Commission has determined the working capital requirement in recent rate proceedings.

The Commission concludes that, consistent with other recent decisions, the formula method of determining the

working capital allowance as presented by Staff Witness Goforth should be used in this case. The allowance for working capital will be determined by adding end-of-period materials and supplies, cash equal to one-twelfth of operating expenses (excluding depreciation and taxes), average prepayments, and compensating bank balances, less average tax accruals and end-of-period customer deposits. Using these components in the calculation, the Commission concludes that the reasonable allowance for working capital is $602,558.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Fair Value Rate Base

The Commission concludes that, considering the original cost less depreciation of $26,880,000 and the replacement cost less depreciation of $29,197,000, the reasonable weighting of original cost less depreciation is 60% and the reasonable weighting of the replacement cost less depreciation is 40% in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. This weighting results in a fair value of plant in service of $27,807,000 which includes a reasonable fair value increment of $927,000. With addition of the working capital of $602,558, the Commission concludes that the fair value rate base is $28,409,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Toll Surcharge

Company Witness Esstman in his direct testimony recommended an intrastate toll rate surcharge on billed intrastate toll revenues to generate a portion of the company's overall intrastate revenue deficiency in order to reduce the increase in local exchange rates necessary to support this deficiency. Witness Esstman determined that the surcharge should be 12.3% on a combined company basis producing combined toll revenues of $390,000 to be divided between the two companies so that Western Carolina would receive 72% of the total or $280,800. The 12.3% surcharge rate resulted from the treatment of the difference in a computed rate of return on intrastate toll operations for the test period of 8.81% and a computed overall cost of capital of 10.40% weighted for the two companies excluding deferred taxes and attrition. The 10.40% cost of capital included returns on common equity of 14.0% and 14.5% for Western Carolina and Westco, respectively. Witness Esstman further indicated that, in order for the companies to continue on a cost basis of settlement with Southern Bell, it would be necessary for the Commission to authorize the companies to retain the surcharge toll amounts and to settle with Southern Bell based on uniform message toll rates.

Staff Witnesses Chase and Gerringer both opposed the company's recommended intrastate toll rate surcharge in

their direct testimonies on the basis that it constituted a form of nonuniform intrastate toll rates which the Commission does not advocate due to the discriminatory problems it creates for the telephone customer and the equipment and administrative problems it creates for the telephone companies. Also, nonuniform toll rates violate existing Traffic Agreements governing toll settlements between Southern Bell and the independent connecting companies in North Carolina.

It is the Commission's decision that none of the increase in intrastate revenues granted in this rate case proceeding shall be derived from a surcharge applied to billed intrastate toll revenues. The basis for the Commission's decision is that it views the toll surcharge as constituting a form of nonuniform intrastate toll rates with all the attendant problems and that the company's method of determining the surcharge rate raises the broad question of whether or not it is proper to include the relative cost of capital of all companies making toll settlements on an actual cost basis in determining the intrastate toll settlement rate of return. This question involves all actual cost settlement companies including Southern Bell and is rightfully set out for investigation and study in Docket No. P-100, Sub 32, which is concerned with the investigation of the division of intrastate toll revenues among all telephone companies in North Carolina.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Operating Revenues

Company Witness Holt, Company Witness Esstman, Staff Witness Goforth, and Staff Witness Gerringer presented testimony concerning the appropriate level of operating revenues. Staff Witness Gerringer testified specifically concerning the intrastate toll revenue increase effective July 1, 1975, the method of dividing the settlements received from Southern Bell between Western Carolina and Westco, the separation factors developed from the cost separations study for the twelve months ending June 30, 1975, and the separations procedures employed by the company to separate its operating revenues and expenses between jurisdictions. Mr. Esstman offered testimony concerning Southern Bell's estimated rate of return to be earned on intrastate toll operations for the calendar year 1976. Witnesses Holt and Goforth each testified as to the appropriate level of intrastate operating revenues after accounting and pro forma adjustments.

The following chart shows the amount claimed by each of these witnesses:

| Item | Company Witness Holt (a) | Company Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Local service | $4,714,027 | $4,714,027 | $4,665,036 |
| Toll service | 3,008,225 | 3,096,498 | 2,656,732 |
| Miscellaneous | 209,464 | 210,150 | 210,150 |
| Uncollectible | (35,693) | (40,667) | (33,894) |
| Total | $7,896,023 | $7,980,008 | $7,498,024 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. The Commission concluded under Evidence and Conclusions for Finding of Fact No. 4 that the factors from the June 30, 1975, cost separations study should be used to allocate North Carolina combined revenues to intrastate operations. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors. However, in column (b) above, the Commission has restated operating revenues as presented by this witness to reflect the June 30, 1975, intrastate allocation factors. The Commission will discuss the differences between these figures and the ones claimed by Witness Goforth.

The first item of revenue difference of $48,991 in local service is caused by the method each witness used to determine end-of-period local service revenues. In determining the end-of-period level of local service revenues, Mr. Goforth testified that he started with the March 1975 billing of $345,331. From this he deducted interim revenues of $43,948 to obtain the March billing exclusive of the effect of the interim rate increase granted January 1, 1975. He further testified that he multiplied this amount by 12 to get annualized local service revenues, exclusive of any interim revenues effective January 1, 1975. To this figure, Mr. Goforth testified that he added the annual amount of additional revenues which will result from the permanent rate increase granted in Docket No. P-58, Sub 93, effective June 1, 1975. The Commission granted Western Carolina Telephone Company an annual rate increase of $1,003,663, based on stations at December 31, 1973. Mr. Goforth testified that it was necessary to increase the amount of $1,003,663 because this previous rate increase was based on stations at December 31, 1973, rather than the stations at March 31, 1975. He stated that it was necessary to recognize additional revenues which will result from the increase in these stations and that he computed this additional revenue by determining the percentage growth of primary stations from December 31, 1973, to March 31, 1975. He then applied this growth factor to the $1,003,663 granted in the last docket to arrive at his end-of-period revenues

of $1,062,257. He testified that he added $1,062,257 to the annual March billing of $3,616,596 which was exclusive of any rate increase to get total annualized March billing of $4,678,853. From this amount he deducted advanced billing and added the company's end-of-period connecting company revenues, pay station refunds, EAS revenues and local private line revenues to arrive at his end-of-period level of local service revenues of $4,665,036. When this amount was compared to Company Witness Holt's end-of-period local service revenues of $4,714,027, it was necessary to reduce the amount included by Witness Holt by $48,991.

In determining the end-of-period level of local service revenues, Witness Holt began with the March 1975 billing exclusive of any revenues resulting from the January 1, 1975, interim rate increase. She then multiplied this amount by 12 to get the annual effect of the March 1975 billing, exclusive of any interim rate increase. To this amount she added $836,390, which represents ten months of the rate increase granted in Docket No. P-58, Sub 93. Witness Holt increased this total by 1.35% for the percentage growth in main stations during the test period. To this amount she added $219,740, which represents five months of the interim rate increase or approximately 2 1/2 months of the full increase granted in Docket No. P-58, Sub 93, to arrive at end-of-period local service revenues of $4,714,027.

The Commission is of the opinion that the method used by Witness Goforth is the proper method of determining end-of-period local service revenues because the method used by Witness Holt overstates end-of-period local service revenues. The main error in this witness' method is that she increased the March 1975 billing (exclusive of the interim rate increase) by the percentage of main station growth during the test year. This was in error because the March 1975 billing was already on an end-of-period basis; therefore, it was unnecessary to apply the main station growth factor to the March 1975 billing. The Commission concludes that Staff Witness Goforth's end-of-period level of local service revenues in the amount of $4,665,036 should be used for the purpose of fixing rates.

The second item of revenue difference of $439,766 relates to the appropriate amount which should be included for end-of-period intrastate toll service revenues. Staff Witness Gerringer and Company Witness Holt presented testimony concerning the appropriate level of end-of-period toll revenues. Witness Gerringer testified that the approach he used to arrive at end-of-period intrastate toll service revenues for the test year for Western Carolina is consistent with the manner in which the company developed its intrastate net investment and intrastate operating expenses for presentation in this proceeding. Under Witness Gerringer's method for computing end-of-period toll revenues for the two companies, approximately 66% of the total combined revenues was allocated to Western Carolina.

Company Witness Holt offered testimony and exhibits showing that in developing end-of-period toll service revenues she computed total end-of-period toll revenues for Western Carolina and Westco on a combined basis. The witness allocated this amount to Western Carolina, based on the ratio of Western Carolina's A, B, Line Haul, and WATS messages to the total of Western Carolina's and Westco's combined A, B, Line Haul, and WATS messages. This method resulted in 72% of the combined toll revenues being allocated to Western Carolina.

Company Witness Holt used an intrastate toll settlement rate of return of 9% based on Southern Bell's original estimate of the effect of the increase in intrastate toll rates that became effective July 1, 1975, as allowed by Commission Order in Docket No. P-100, Sub 34. Staff Witness Gerringer also used a rate of 9% which he based on the annualized actual rates of return on intrastate toll operations for July through November, 1975.

Company Witness Esstman offered additional testimony advocating that a rate of return of 8% be used in calculating end-of-period toll revenues. He stated that an 8% rate of return was provided by Southern Bell as an estimate of the rate of return to be earned on intrastate toll settlements for the calendar year 1976.

The Commission concludes that Witness Gerringer's method should be used to calculate end-of-period intrastate toll revenues. This method results in intrastate toll revenues being allocated to Western Carolina on a basis consistent with the basis used by both company and Staff witnesses to allocate North Carolina combined investment and expenses to intrastate operations.

The approach Staff Witness Gerringer used to determine each company's end-of-period intrastate toll revenues is the same approach that he used in Western Carolina's and Westco's last general rate cases in Docket No. P-58, Sub 93, and Docket No. P-78, Sub 32, respectively. This approach was accepted by the Commission in making a final decision in each rate case. The Commission is of the opinion that this method is appropriate and unless a cost separations study is performed for each company, the Commission will only consider this approach in future rate filings.

The Commission also agrees with Witness Gerringer that the proper intrastate toll settlement rate of return to be used in this proceeding is 9%. Witness Gerringer's recommended rate of return of 9% is a more reasonable return than the 8% recommended by Company Witness Esstman. The 8% return recommended by Witness Esstman represents nothing more than Bell's best estimate of the intrastate toll earnings for 1976. The 9% return recommended by Witness Gerringer represents the actual achieved return after the toll rate increase for the months of July through November, 1975. The Commission concludes that an annualized intrastate toll rate

of return of 9% is the proper rate to be used in estimating the end-of-period intrastate toll revenues for Western Carolina in this proceeding.

Staff Witness Gerringer testified that Western Carolina's end-of-period intrastate toll revenues of $2,669,699 do not include the effects of any adjustments made by Commission Staff Witness Goforth. Witness Goforth made an adjustment of $12,967 decreasing intrastate toll revenues following adjustments to depreciation expense, postal expense, and to plant in service. Witness Goforth testified that, if Western Carolina had actually experienced the net decrease in operating expenses and the decrease in plant investment which he proformed into the test period operations, Western Carolina would have received $12,967 less in intrastate toll revenues from Southern Bell.

As previously discussed under Evidence and Conclusions for Finding of Fact No. 5, the Commission excluded excess profits from the original cost net investment, and, under Evidence and Conclusions for Finding of Fact No. 11, the Commission accepted Witness Goforth's adjustments to depreciation expense and postage expense. Consistent with those conclusions the Commission accepts Witness Goforth's adjustment of $12,967, representing the intrastate toll revenue effect of these adjustments. Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the proper level of intrastate toll revenues is $2,656,732.

Both witnesses are in agreement that the proper level of end-of-period miscellaneous revenues is $210,150; therefore, the Commission concludes that end-of-period level of miscellaneous revenues is $210,150.

The remaining difference of $6,773 in the amounts proposed by the witnesses for intrastate operating revenues relates to the amounts each witness included as uncollectible revenues. Both Witness Goforth and Witness Holt increased or decreased uncollectible revenues to reflect the uncollectible portion of their revenue adjustments. The Commission concludes that, having adopted all of Witness Goforth's revenue adjustments, it is also proper to adopt Witness Goforth's intrastate uncollectible revenue amount of $33,894.

In summary, the Commission concludes that the appropriate level of operating revenues under present rates is $7,498,024, consisting of $4,665,036 in local service revenues, $2,656,732 in intrastate toll service revenues, $210,150 in miscellaneous revenues, and uncollectible revenues of $33,894.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Operating Revenue Deductions

Company Witness Holt and Staff Witness Goforth presented testimony and exhibits showing the level of intrastate operating revenue deductions they believed should be used by the Commission for the purpose of fixing Western Carolina Telephone Company's rates in this proceeding.

The following chart shows the amount contended for by each witness:

| Item | Company Witness Holt Per Exhibits (a) | Company Witness Holt Adjusted for June 30, 1975 Allocation Factors (b) | Staff Witness Goforth (c) |
|---|---|---|---|
| Operating expenses | $2,909,037 | $2,922,890 | $2,933,513 |
| Depreciation and amortization | 1,451,503 | 1,472,472 | 1,453,632 |
| Taxes - other than income | 808,787 | 815,208 | 761,900 |
| Income taxes - state and federal | 815,469 | 735,405 | 621,767 |
| Interest on customer deposits | | | 3,328 |
| Total operating revenue deductions | $5,984,796 | $5,945,975 | $5,774,140 |

Company Witness Holt filed her testimony and exhibits based on intrastate allocation factors developed from a cost separations study for the twelve months ended June 30, 1974. The Commission concluded under Evidence and Conclusions for Finding of Fact No. 4 that the factors from the June 30, 1975, cost separations study should be used to allocate North Carolina combined expenses to intrastate operations. Witness Holt did not revise her testimony and exhibits for the new intrastate allocation factors. However, in column (b) above, the Commission has restated operating revenue deductions as presented by this witness to reflect the June 30, 1975, intrastate allocation factors. The Commission will discuss the differences between these figures and the ones claimed by Witness Goforth.

The first item causing a difference in the amounts proposed for operating revenue deductions is an adjustment made by Staff Witness Goforth to include as operating expenses a postal rate increase of 30% effective December 1975. Witness Goforth testified that a first-class postage increase from 10¢ to 13¢ an ounce took place in December 1975 and made an adjustment of $10,623 to increase Western Carolina's intrastate test year postage expense for this

change in postal rates. The company did not make an adjustment for the postal rate increase.

The Commission concludes from the evidence presented that Witness Goforth's adjustment increasing postage expense in the amount of $10,623 should be included in the fixing of Western Carolina's rates in order to reflect in the test year the higher postage rates that will be in effect subsequent to December 1975.

There is one decrease in operating expenses which must be made. Staff Witness Land testified as to the cost reduction which Western Carolina may expect by charging for directory assistance calls. Since the Commission is setting rates based on charging for these calls, the Commission also finds that the cost reduction of $36,721 as testified to by Witness Land should be considered as a further reduction in operating expenses. The derivation of the $36,721 cost savings is explained under Evidence and Conclusions for Finding of Fact No. 18. The Commission concludes the proper level of operating expenses is $2,896,792.

The next item causing a difference in operating revenue deductions is an adjustment made by Witness Goforth to eliminate depreciation recorded on excess profits related to purchases from Superior Continental Corporation and Vidar Corporation and depreciation recorded on plant retired from service at the Andrews and Franklin Exchanges. Based on the Commission's decision in Evidence and Conclusions for Finding of Fact No. 5 that the profits of Superior Continental Corporation and Vidar Corporation on sales to Western Carolina were excessive and that the plant not in service located at the Andrews and Franklin Exchanges should be removed from plant in service, the Commission concludes that the depreciation expense in the amount of $18,840 on excess profits and on plant retired from service but still recorded on the books should be eliminated for purposes of fixing rates. Based on the foregoing discussion, the Commission concludes that the proper level of depreciation expense is $1,453,632.

The next item causing a difference in operating revenue deductions is the amounts proposed by the two witnesses for taxes other than income due to adjustments made by each to include gross receipts tax on operating revenue adjustments. Consistent with its conclusions that Witness Goforth's adjustments to revenues were proper, the Commission concludes that Witness Goforth's adjustment decreasing end-of-period intrastate gross receipts tax is proper and that the proper level to be included in the test year for taxes other than income is $761,900.

The Commission will now discuss state and federal income taxes. Both Staff Witness Goforth and Company Witness Holt calculated the amount which should be included for end-of-period intrastate state and federal income taxes. The level computed by Company Witness Holt is $735,405, while the

amount computed by Staff Witness Goforth is $621,767. The reason for this is that state and federal income taxes are a function of income before income taxes multiplied by the state and federal statutory tax rate. Income before income taxes is determined by deducting from operating revenues, operating revenue deductions, interest cost and Schedule M deductions for which normalization accounting is not followed. As previously discussed, both witnesses included different amounts for operating revenues and operating revenue deductions. Therefore, the amounts used by each for taxable income and, hence, the amount included for state and federal income tax expense will be different. The Commission does not believe any benefit will be gained from rehashing these differences. Since the adjusted level of revenues and expenses found proper by the Commission is different from the levels included by either of these witnesses in their exhibits as originally filed, the Commission will calculate the appropriate level of end-of-period state and federal income tax expense. However, there exists one item of difference in the two witnesses' computations of federal income taxes which should be discussed. In computing federal income taxes, Witness Holt deducted only the portion of state income taxes which are currently payable by Western Carolina while Witness Goforth deducted both the amount of state income taxes currently payable and the amount of state income taxes which were deferred during the test year. The Commission agrees with Witness Goforth's deduction of both current and deferred state income taxes in computing federal income taxes. In this proceeding rates are being set to cover a normalized level of state income taxes which not only includes state income taxes currently payable but state income taxes which will be deferred and not paid by Western Carolina until future years. Consistent with the Commission's practice of including normalized state income tax expense in determining the company's cost of service for rate-making purposes, the Commission herein adopts Witness Goforth's method of deducting both the deferred portion of state income taxes as well as the portion which is payable currently in computing federal income taxes.

The Commission concludes that the proper end-of-period amount of state income taxes is $77,616 and federal income taxes is $559,324. The following schedule sets forth the state and federal income tax calculation:

| Line No. | Item | | Amount |
|---|---|---|---|
| 1. | Total operating revenues | | $7,498,024 |
| 2. | Operating revenue deductions: | | |
| 3. | Operating expenses and depreciation | | 4,350,424 |
| 4. | Interest - Customer deposits | | 3,328 |
| 5. | Other operating taxes | | 761,900 |
| 6. | Interest expense | | 1,060,617 |
| 7. | Total deductions | | 6,176,269 |
| 8. | Net operating income | | 1,321,755 |
| 9. | Add: Depreciation on items capitalized | $ 77,077 | |
| 10. | Deduct: Payroll taxes capitalized | (47,249) | |
| 11. | Property taxes capitalized | (13,966) | |
| 12. | Pensions capitalized | (44,015) | (28,153) |
| 13. | State taxable income (L8 - L12) | | 1,293,602 |
| 14. | State income tax rate | | 6% |
| 15. | State income tax (L13 X L14) | | 77,616 |
| 16. | Federal taxable income (L13 - L15) | | 1,215,986 |
| 17. | Federal income tax rate | | 48% |
| 18. | Federal income tax (L16 X L17) | | 583,673 |
| 19. | Amortization of investment tax credit | | (24,349) |
| 20. | Federal income taxes (L18 - L19) | | $ 559,324 |

Staff Witness Goforth proposed to include interest on customer deposits as an operating expense. The Commission, having previously concluded that customer deposits should be included as a reduction in working capital, now concludes that consistency dictates inclusion of interest on customer deposits as an operating expense. This treatment will insure that the company will recover only its cost of these customer supplied funds.

Based on all the testimony and evidence presented in this case and discussed above, the Commission concludes that the proper level of total operating revenue deductions is $5,752,592.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Quality of Service

The evidence as to the quality of service provided by Western Carolina which appears in this record consists of the testimony and exhibits of Eugene Morris, President of Western Carolina Telephone Company; Gene A. Clemmons, Chief Engineer, Telephone Service Section, North Carolina Utilities Commission; and 30 public witnesses who appeared at the hearings in Sylva and Asheville. The Commission takes judicial notice of the prior Orders of the Commission in Docket No. P-58.

Mr. Morris testified that he became president of Western Carolina in October 1975. He adopted the prefiled testimony of former President Norman Gum and described the general operations of Western Carolina Telephone Company, the construction problems which he considered unique to the area served by Western Carolina, the customer growth experienced by the company since 1970, the company's upgrading program, the trouble report handling program, the program to improve and maintain the quality of toll service, the company's construction program since 1970, and the forecasted capital expenditures to 1979. The witness stated that the company has progressed from relatively poor service in the 1960's to better and steadily improving service today.

Mr. Clemmons testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by Western Carolina. Witness Clemmons testified that the company had been evaluated with respect to meeting the service objectives established by the Commission in the previous Orders; that the history of the company reflected periods of improvement followed by declines in the quality of service; that since issuance of the Commission's Order in April 1975 the trend has been improving; that there are several areas where service has not been brought to the level required by previous Commission Orders; that major problems still exist with regard to the efficiency of handling subscriber trouble reports; that the company's efforts to meet the service order objective have fallen far short; and that the efficiency with which service orders and trouble reports are handled is very critical in the development of subscriber attitude about telephone service. Witness Clemmons further testified that Western Carolina has developed basic operating practices and procedures, but the fundamental problem is with the efficient implementation of such procedures; that this is a basic function of the management of the telephone company; and that Western Carolina must have competent, dedicated, and stable management to achieve the level of service expected by the subscribers and the Commission.

Of the 30 public witnesses who testified at the consolidated hearings in Sylva and Asheville, there were 11 witnesses who made specific service complaints, 18 witnesses who were not complaining about service but objected to the proposed rate increase, and one witness who stated that the notice of hearing was inadequate. The public witness testimony concerning service problems included complaints from three business subscribers including Clifton Precision Company, Southeastern Teacher Corps Network, and Mark Martin, a business subscriber in Cashiers.

James Gilroy, Personnel Manager of Clifton Precision, testified that since September 1973 his company has maintained a log of operating difficulties with Westco, that there has been a slight improvement in service, but that the longstanding problems still remain. Ms. Nancy Hall,

Purchasing Agent for Clifton Precision, testified that she uses the telephone extensively for making long distance calls and has maintained a log of her long distance calls since November 1975. Ms. Hall stated that she has tremendous difficulty making long distance calls including problems such as calls going completely dead, frequent operator cut-ins, called party not hearing her, static on lines, and cross talk.

Dr. Arthur Justice, Executive Director of the Southeastern Teacher Corps Network, testified that his service problems include cut-offs, failure of equipment to function properly, dial tone returned, and noises on the line. Dr. Justice further stated that he tried to get service, but only on a few occasions did a serviceman come; the problem was never fixed. He further stated that the service remains at the same level or deteriorates.

Mr. Martin testified that his service problems included a high percentage of cut-offs on long distance calls, the inability to ring through to a number, or being told that the phone was out-of-order. The witness further stated that things are not much better now than they were a year ago.

The remaining 8 witnesses who testified concerning service problems indicated difficulties such as local dialing malfunctions, noise on line, cut-offs on local and long distance calls, inability to be upgraded from four-party to one-party at Buladean Elementary School, slow operator answers from Bakersville area, and incorrect toll billings.

The official records in the Western and Westco dockets include the following: On March 20, 1967, the Commission issued an Order of investigation and show cause to Western Carolina, Westco Telephone Company, and Continental Telephone Corporation. In this Order the Commission noted that, as a result of numerous complaints and various field observations, the service provided by Western Carolina and Westco "is or may be inadequate" and ordered a general investigation and a show cause proceeding. This proceeding, which still remains open, contains numerous orders relating to the Commission's investigation into the service of the two companies and their efforts to meet the Commission's objectives.

In an Order dated July 15, 1970, in Docket No. P-58, Sub 61, granting a rate increase, the Commission listed 17 requirements for improving service with which Western and Westco were ordered to comply. In that docket the Commission found the service of the companies to be "insufficient and inadequate." In an Order in Docket No. P-58, Sub 65, issued on November 21, 1972, the Commission found the companies' service once again to be inadequate and stated:

"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 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."

In this docket the Commission, as a result of the inadequate service, established rates which were lower than those rates which would have been approved if the service had been adequate.

In Docket No. P-58, Sub 93, in an Order issued on April 30, 1975, the Commission found as a fact that while the company had made significant and continuing improvements in its level of service, such level of service continued to be insufficient and inadequate, particularly in the company's Western District. In this docket the Commission found it necessary once again to set rates which were lower than those rates which would have been approved if the service were adequate.

The Commission recognizes that there have been improvements in the quality of service provided by Western Carolina Telephone Company. However, the history of the problems with the quality of telephone service provided by the company is long and arduous, as shown by the Commission's Show Cause Order issued in 1967 and the further Orders requiring service improvements in 1970, 1972, 1974, and 1975. This Commission has exercised constant effort since 1967 to persuade and require this company to bring its service to an adequate and efficient level. The fact remains, however, that Western Carolina Telephone Company is not now providing the adequate level of service required by statute, the minimum level required by specific Commission Order, and the level of service to which the subscribers in its franchised service area are entitled. As Mr. Clemmons testified, major problems still exist with regard to the efficient handling of subscriber trouble reports and service orders. The Commission's objective is that at least 95.0% of all subscriber trouble reports received each month should be cleared within 24 hours. The Sylva, Franklin, and Murphy service centers failed to meet this objective during 1975, as did the total Western District. The Marion and Weaverville service centers met the objective, as did the total Eastern District. The impact of the Western District caused the total company to fail to meet the objective. The Commission has also established an objective that 90.0% of all regular service orders should be completed within 5 working days. The 1975 average for the total company was

62.0%. During 1975 there were no service centers which met the objective.

Nor has the company reached the efficient level of operation that is necessary to establish consistently good quality service. When compared to the past and present performance of well-operated telephone companies in North Carolina, the record of Western Carolina Telephone Company leaves much to be desired. The constant changes in management and company organization in North Carolina during the past eight years have hindered the company's attaining an adequate level of service. These changes appear to arise from a desire on the part of the parent company, Continental Telephone Corporation, to constantly shift management for corporate purposes rather than to establish an efficient North Carolina organization. The most recent change in management, the installation of Mr. Morris as president, has occurred since the company's last rate case in 1975. Mr. Morris is the company's fifth president since the company was acquired by Continental in 1964. Mr. Morris will not reside in North Carolina. He will not be devoting his full time to Western Carolina Telephone Company. Mr. Morris' duties as manager of Mid-South Division of Continental Telephone Corporation also involve responsibilities for operating companies in Tennessee and Kentucky. The Commission is strongly of the opinion that Western Carolina Telephone Company needs an operations manager who can devote his full energies to the North Carolina company.

The attitude of company management expressed during this case is not any more impressive than in the previous case. The managerial and organizational changes which have occurred since the 1975 rate case renew our concern about the capability of Western Carolina Telephone Company to operate efficiently and meet the service needs of its North Carolina subscribers.

The Commission calls attention to its Orders in Docket Nos. P-58, Sub 102, and P-78, Sub 37. In its Order of December 13, 1975, which was issued pursuant to G. S. 62-37(b), the Commission concluded that an examination of utility management techniques, management personnel, and company operations by competent and qualified independent management consultants may yield benefits to the rate-paying public of this State. The Commission selected Western Carolina Telephone Company and Westco Telephone Company for such an audit. By Order issued April 26, 1976, the Commission designated Theodore Barry and Associates to conduct a management performance audit of Western and Westco "to thoroughly examine the efficiency and effectiveness of management decisions and other factors." The Commission is of the opinion that such management performance audit will benefit both the company and the ratepayers and will assist the company in reaching the overall level of service required by this Commission.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13-17

Cost of Capital

The Commission adopts the capital structure presented by Company Witness Hanley, which was the company's actual capital structure as of March 31, 1975. This capital structure reflects intrastate book common equity of $10,525,754.

The capital structure set out in Finding of Fact No. 14 represents a capital structure in which the fair value increment of $927,000 has been added to the book common equity of $10,525,754. This capital structure, which shows the fair value equity of the company, is reasonable and is adopted by the Commission to determine the cost of the company's fair value equity.

All three rate of return witnesses agreed that the cost of long-term debt and preferred stock was 7.86% and 7.17%, respectively, and the Commission finds and concludes the same. Company Witness Hanley recommended a return on equity of 14%, based on his study of historical price-earnings ratios, market-to-book ratios, and return on equity of "comparable" companies, plus a consideration of the general economic climate.

Staff Witness Currin recommended a return on equity of 13.30% to 13.77%, based upon his application of the double leverage theory to Continental and a consolidated Western and Westco. The cost of equity to Continental was calculated using the Discounted Cash Flow formula.

Mr. Baughcum, the Attorney General's witness, also used the Discounted Cash Flow and double leverage formulas to estimate the cost of equity to Western. Using a different time frame and growth estimation technique, he recommended a return on equity of 12.32%.

Based upon the evidence in the case, the Commission finds and concludes that Western's cost of book common equity would be 13.0%, assuming that the service provided by the company had been adequate. In Finding of Fact No. 12, however, the company's service was found to be inadequate.

The failure of Western Carolina Telephone Company to provide adequate, efficient, and reasonable service is a material factor to be considered in establishing the fair rate of return. This is especially true in view of the fact that the Commission's previous Orders requiring service improvements and minimum service objectives have not been met. In the previous rate case (Docket No. P-58, Sub 93) the Commission penalized the company 1.5% on equity earnings because of inadequate service. The rate of return on book common equity granted in this case relative to what the Commission would have granted had the service been adequate reflects a penalty of 2.0%. This penalty lowers the return

on book common equity from 13.0% to 11.0%, thereby reducing by $465,824 the revenues that would have been granted under a 13.0% return. The company's continued failure to provide adequate service after persistent and specific efforts by this Commission in previous cases justifies this penalty. The Commission has granted rate increases to this company in each of the two (2) preceding rate cases even though the service was found inadequate.

Because of the further deterioration of the company's financial condition, the rates are again being increased in this case. However, the Commission cannot ignore the inadequacies of service and the continued failure of management to develop an efficient operation in North Carolina. The Commission believes that the 2.0% penalty is the minimum that should be prescribed at this time. Western Carolina and Continental should take due notice that if degradation of service occurs from the present levels a greater penalty would be justified.

The Commission must also take into account the company's fair value increment of $927,000 and the effect of adding this increment to the book equity component of the company's capital structure. In so doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel. Utilities, et al. v. Duke Power Co., 285 N.C. 377 (1974), wherein it is stated:

> "...the capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same

equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration in its findings on rate of return the reduction in risk to Western's equity holders and the protection against inflation which is afforded by the addition of the $927,000 fair value increment to the book equity component. Considering the current investment market and Western's expansion and upgrading of service to its ratepayers, the Commission concludes that a rate of return of 10.37% on fair value equity, including both book common equity and the fair value increment, is fair and reasonable. The 10.37% return on fair value equity and the returns of 7.86% on total debt and 7.17% on preferred stock yield a rate of return on Western's fair value property of 8.20%. The actual dollar return yielded by the rate of return of 10.37% on the fair value equity will yield a rate of return of 11.30% on book common equity, reflecting the incremental dollars added for fair value. Although the rates approved herein are less than those which would be deemed a fair return upon the fair value of the company's properties were the service adequate, these rates will yield a return sufficient to pay the interest on the company's indebtedness and a substantial dividend upon its stock.

Had the Commission found that the company was providing an adequate level of service, a return of 8.95% on fair value of property, 13.0% on book common equity, and 12.23% on fair value equity would be just and reasonable for the company. The actual dollar return which would have been yielded by a return of 12.23% on fair value equity would have yielded a rate of return of 13.30% on book common equity.

The following schedules show the derivation and application of the findings hereinabove and are to be incorporated as part of those findings:

SCHEDULE I
WESTERN CAROLINA TELEPHONE COMPANY
DOCKET NO. P-58, SUB 99
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED MARCH 31, 1975

| | Present Rates | Increase Approved | After Approved Increase |
|---|---|---|---|
| Operating Revenues | | | |
| Local service | $ 4,665,036 | $1,277,071 | $ 5,942,107 |
| Toll service | 2,656,732 | | 2,656,732 |
| Miscellaneous | 210,150 | | 210,150 |
| Uncollectibles | (33,894) | (5,747) | (39,641) |
| Total operating revenues | 7,498,024 | 1,271,324 | 8,769,348 |
| Operating Revenue Deductions | | | |
| Maintenance expenses | 1,240,359 | | 1,240,359 |
| Traffic expenses | 439,321 | | 439,321 |
| Commercial expenses | 454,766 | | 454,766 |
| General office salaries and expenses and other expenses | 762,346 | | 762,346 |
| Total operating expenses | 2,896,792 | | 2,896,792 |
| Depreciation and amortization | 1,453,632 | | 1,453,632 |
| Taxes other than income | 761,900 | 76,279 | 838,179 |
| State income tax | 77,616 | 71,703 | 149,319 |
| Federal income tax | 559,324 | 539,204 | 1,098,528 |
| Interest on customer deposits | 3,328 | | 3,328 |
| Total operating revenue deductions | 5,752,592 | 687,186 | 6,439,778 |
| Net operating revenues | 1,748,760 | 584,138 | 2,332,898 |
| Net operating income for return | $ 1,745,432 | $ 584,138 | $ 2,329,570 |

| | | | |
|---|---|---|---|
| **Investment in Telephone Plant** | | | |
| Telephone plant in service | $30,156,827 | | $30,156,827 |
| Less: Accumulated provision for depreciation | 3,073,999 | | 3,073,999 |
| Excess profits earned by Superior Continental Corporation and Vidar Corporation | 203,000 | | 203,000 |
| Net investment in telephone plant in service | $26,879,828 | | $26,879,828 |
| **Allowance for Working Capital** | | | |
| Materials and supplies | 164,027 | | 164,027 |
| Cash | 241,677 | | 241,677 |
| Average prepayments | 15,683 | | 15,683 |
| Compensating bank balance | 454,800 | | 454,800 |
| Less: Average operating tax accruals | (209,298) | | (209,298) |
| Customer deposits | (64,331) | | |
| Total allowance for working capital | 602,558 | | 602,558 |
| Net investment in telephone plant in service plus allowance for working capital | $27,482,386 | | $27,482,386 |
| Fair value rate base | $28,409,386 | | $28,409,386 |
| Rate of return on fair value rate base | 6.14% | | 8.20% |

SCHEDULE II
WESTERN CAROLINA TELEPHONE COMPANY
DOCKET NO. P-58, SUB 99
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED MARCH 31, 1975

| Capitalization | Fair Value Rate Base | Ratio % | Embedded Cost or Return on Common Equity % | Net Operating Income |
|---|---|---|---|---|
| | Present Rates - Fair Value Rate Base | | | |
| Total debt | $13,493,851 | 47.50 | 7.86 | $1,060,617 |
| Preferred stock | 1,126,778 | 3.97 | 7.17 | 80,790 |
| Common equity<br>Book $10,525,754<br>Fair value increment 927,000 | 11,452,754 | 40.31 | 5.27 | 604,025 |
| Cost-free capital | 2,336,003 | 8.22 | - | |
| Total | $28,409,386 | 100.00 | | $1,745,432 |
| | Approved Rates - Fair Value Rate Base | | | |
| Total debt | $13,493,851 | 47.50 | 7.86 | $1,060,617 |
| Preferred stock | 1,126,778 | 3.97 | 7.17 | 80,790 |
| Common equity<br>Book $10,525,754<br>Fair value increment 927,000 | 11,452,754 | 40.31 | 10.37 | 1,188,163 |
| Cost-free capital | 2,336,003 | 8.22 | - | |
| Total | $28,409,386 | 100.00 | | $2,329,570 |

| | | |
|---|---|---|
| Required net increase for return | ($2,329,570 - $1,745,432) | $ 584,138 |
| Associated increase in taxes other than income | $ 76,279 | |
| Associated increase in state income tax | 71,703 | |
| Associated increase in federal income tax | 539,204 | |
| Associated increase in revenue deductions | | 687,186 |
| Required increase in total operating revenues | | 1,271,324 |
| Associated uncollectibles | | 5,747 |
| Required increase in gross operating revenues | | $1,277,071 |

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Rates and Rate Design

Mr. Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified regarding rate and charge design and other factors relating to these items. He opposed the company's plan to increase zone charges, contending that it takes like facilities to complete local calls between urban and rural subscribers, thereby making the practical costs the same, regardless of who originates the call. He stated that, after reviewing the company territory, he recommended that the zone charges remain at the present level. Regarding base rate areas, he testified that he and the company concurred that there were areas that needed to be included in the base rate areas and that the Applicant had submitted proposed enlargements which he believed were reasonable base rate area extensions. Mr. Chase testified that the Applicant has many seasonal subscribers who have their service suspended or discontinued thereby paying only part of the year. His opinion was that these subscribers are not paying their fair share and are thus burdening the other ratepayers and that the Applicant should submit a tariff for the Commission's consideration to insure that these seasonal subscribers would be required to take service under a contract for a 12-month period paying no less than 9 months' rental in any 12-month contract period. Regarding numerous new residential developments, he stated he believed it would be advantageous to the overall

body of ratepayers if a requirement was placed on the developers to pay for the construction necessary in the development before the facilities are placed, with a refund provision. Mr. Chase recommended that the spread between one- and four-party service be increased because it may be advantageous due to the low station density in the area. Regarding a surcharge in intrastate toll service, he testified that it would be undesirable to have other than uniform intrastate toll rates and that perhaps a 3-way split between interstate and intrastate local and intrastate toll should be considered. He testified that he believed the company's proposal to increase the local coin telephone messages from 10¢ to 20¢ was reasonable. Regarding service charges, he stated the Commission would probably approve new service charge tariffs for Western Carolina and for Westco Telephone Companies as they were required to file in Docket Nos. P-58, Sub 93, and P-78, Sub 32.

Commission Staff Witness Charles D. Land proposed that charges for directory assistance (D.A.) inquiries be considered. He recommended that a charge of 20¢ per D.A. call be imposed after an allowance of five (5) free calls monthly. Mr. Land recommended that in addition to the five-call allowance one free toll D.A. inquiry within the 704 area be allowed for each sent paid 704 area toll call completed during the same billing month. Mr. Land recommended that pay stations and services furnished for individuals who are blind or physically handicapped to the extent they are unable to use the directory be exempted from D.A. charges.

Mr. Land stated that the company's D.A. inquiries from the Eastern District are answered by Southern Bell at Asheville and that the Western District inquiries are answered by Western Carolina operators at Sylva. He observed that the costs to Western Carolina to answer D.A. inquiries at Sylva for Westco subscribers are approximately 18¢ per call and that Westco should pay Western that amount instead of the 10¢ presently contemplated. He stated that the economic benefit of D.A. charging should be 17¢ per main station monthly and that this was calculated from an estimated gross cost savings of $56,865 and estimated revenues of $10,054. In addition to those amounts, Western would pay Bell an additional $20,144 and Westco would pay Western $2,671 less as a result of operator office agreement changes. Also, Westco will pay Western $9,864 more to adjust the per call charge from 10¢ to 18¢.

Mr. Edwin H. Guffey, General Commercial Manager of Western Carolina Telephone Company, testified regarding the company's proposals to increase the spread between the 1- and 4-party rates in an attempt to slow down regrades so they can be worked on a more orderly basis and utilize sound economic engineering practices regarding zone charges. He testified that these charges should be increased to a level which would more closely compensate for the cost that is associated with providing service outside the base rate

area. He testified that the Old Fort and Marion exchanges have exceeded the top limits of their present rate group and should be moved from Group 2 to Group 3. Regarding service connection charges, he stated that the company would be in a position by year-end 1975 to implement a "tiered" service connection charge pricing to produce the same dollar amount of revenue that it is proposing in this application. He testified that increases in directory listing charges were needed to partially compensate for increased costs. In regard to raising the local message charge from 10¢ to 20¢ on coin telephones, he stated this proposal would allow the increased costs to be recovered from those who actually use the service. He testified that increased charges in private line service would relate more closely to the value of this service.

Mr. Michael B. Eastman, Assistant Vice President - Revenues, of the Continental Telephone Service Corporation - Eastern Region, testified that a toll surcharge was necessary for Western and Westco because the Southern Bell intrastate toll rate of return does not reach the cost of capital of Western and Westco. He computed that Western and Westco will receive an 8.81% rate of return on toll business as compared to a 10.40% required state toll return, a return deficiency of 1.59%. He testified that the company is requesting a 12.3% surcharge on all state toll bills to recover this deficiency; yet the company will still settle with Southern Bell (on a cost basis) based only on uniform message toll rates. He stated that the surcharge was suggested in order to keep local exchange rates as low as possible.

Based on the foregoing testimony and the exhibits in support thereof, the Commission reaches the following conclusions with regard to the rate structure design to be approved for Western Carolina Telephone Company.

(1) Basic Rate Schedule:

(a) The schedule of rates and charges and the service charge tariff set forth in Appendix "B" attached to this Order are found to be just and reasonable.

(b) The Commission finds it reasonable to expand the rate difference between one- and four-party service as an experiment to determine if plant facilities can be used in a more efficient manner in respect to the subscribers' interests.

(2) Coin Telephone Service:

The Commission finds that there is a need to adjust the local coin call charge from 10¢ to 20¢. While recognizing that, percentagewise, this is a large increase, the Commission notes that there have been

numerous increases in the cost of providing this service and that the charge has not been increased for over 20 years. Because of the desire to alleviate further increases in basic service, it is concluded that the local coin call increase is necessary at this time.

(3) Service Charges:

The Commission concludes that Western Carolina Telephone's service charges should be increased to a level which more closely approximates the level of costs involved in doing the work, and the charge applicable for each request should depend on the actual work functions involved. The increased charges should be implemented using the "tiered" format as proposed by the Staff.

(4) Supplemental Services and Equipment:

The Commission finds that the provision of supplemental services and equipment should not result in a burden upon the subscribers to basic service and that the rates should be set accordingly.

(5) Rural Zone Charges:

The Commission concludes that zone charges should remain at their present level.

(6) Base Rate Areas:

The Commission concludes that the base rate areas should be extended in accordance with the revisions proposed by the company in its letter of January 5, 1976.

(7) Seasonal Service:

The Commission concludes that the seasonal subscriber situation, as it relates to the annual contribution these subscribers make to the overall revenue requirements of the company, needs to be considered further. Therefore, the Commission in this proceeding will order the Applicant to file tariff provisions covering this matter for the Commission's consideration.

(8) New Residential Developments:

The Commission finds that the matter of new residential developments most likely will affect the overall body of ratepayers and therefore will order the Applicant, in this proceeding, to file tariffs for the Commission's consideration which would reflect the requirement of the developers to pay the

construction charges applicable prior to the placement of the facilities, with refund provisions.

(9) Intrastate Toll Surcharge:

The Commission concludes that the application of a surcharge on intrastate toll calls should not be used as the method of recovering a deficiency in the company's intrastate toll rate of return. The Commission believes this relief should be found by other means, namely, by the company's proposing increased toll charges.

(10) Directory Assistance Charges:

Based on the foregoing analysis, the Commission concludes that charges for directory assistance inquiries are an appropriate method of allocating to subscribers a portion of the cost of specific services used. It is unquestionable that a vast number of unnecessary calls are made for information that is readily available or can be made readily available on an ongoing basis. This practice is a burden on the general body of telephone ratepayers and is a hindrance to keeping basic charges for service as low as possible, which is in the best interest of all subscribers, especially those subscribers with marginal ability to maintain telephone service. An estimated reduction of 60% to 70% of the directory assistance traffic is a clear example of the fact that a D.A. charge, among other things, will cause telephone users to consult the directory for desired numbers and to record numbers once obtained from other sources. The Commission is of the firm opinion that requests for directory assistance create an identifiable cost which should be borne by those for whom it is incurred.

The Commission concludes that an allowance of five (5) free calls monthly will adequately provide for the reasonable needs of nearly all subscribers and that a charge of 20¢ for each local directory assistance request in excess of five (5) calls monthly per subscriber should be approved. The Commission further concludes that there should be no charge for toll directory assistance inquiries made outside the home area code. With respect to the toll directory assistance inquiries made within the home area code, a matching plan should be implemented and subscribers should be allowed one free toll directory assistance inquiry for each sent paid toll call to a number in the home area code.

The Commission is of the opinion that a 60% reduction in local directory assistance calling may reasonably be expected. This would result in an expense increase of $36,721 and increased revenues of $17,247

which the Commission has considered in determining the revenue requirements for Western Carolina.

The Commission is of the opinion that those persons who are blind or otherwise physically handicapped to the extent they are unable to use the telephone directory should be exempted from D.A. charges. Western Carolina is being ordered herein to collect data on the use of this exemption to enable the Commission, at the end of the experimental period for D.A. charging, to fully evaluate the needs of and uses made by handicapped individuals concerning directory assistance services. The Commission recognizes that a uniform, statewide D.A. charging plan is ultimately desirable and that the D.A. charging plans approved for Western Carolina (herein), Central Telephone Company, and Southern Bell differ from the one approved for Carolina Telephone and Telegraph Company. All D.A. charging plans, including the one approved herein, are considered experimental for approximately one year. It is the Commission's intent to allow the companies to gain operating experience with different plans. At such time as sufficient data is available to evaluate the merits of both plans, the Commission expects to initiate a proceeding to consider D.A. charging for all regulated telephone companies in North Carolina and to consider changes, if any, to be made in the D.A. charging plans already approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Western Carolina Telephone Company, be, and hereby is, authorized to increase its North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenues not to exceed $1,277,071 based upon stations and operations as of March 31, 1975, as hereinafter set forth in Appendix "A."

2. That the local monthly rates, service charges, general exchange item rates, and regulations prescribed and set forth in Appendix "A" hereto attached, which will produce additional gross revenues of $1,277,071 from said end of test period customers, be, and are hereby, approved to be charged and implemented by Western Carolina Telephone Company, effective on service to be rendered on and after the date of this Order, except as noted hereinafter.

3. That Western Carolina shall file, within 7 days of this Order, the necessary revised tariffs reflecting the above increases, decreases and regulations, said tariffs to be effective as of the dates prescribed above.

4. That Western Carolina shall implement the service charge tariff attached hereto as Appendix "B" effective on service to be rendered on and after the date of this Order.

5. That Western Carolina is authorized to begin directory assistance charges in accordance with Appendix "A" attached to this Order after June 30, 1976, and after the NOTICE attached as Appendix "C" is given to its subscribers. That Western Carolina shall, before June 15, 1976, mail as a bill insert or direct mailing the NOTICE attached as Appendix "C" to all subscribers and shall, commencing July 15, 1976, mail as a bill insert the REMINDER attached as Appendix "C" to all subscribers. Should the company be unable to initiate directory assistance charges on July 1, 1976, it should so advise the Commission and make appropriate changes in the dates in the NOTICE, the REMINDER, and the mailing dates given hereinabove.

Further, that Western Carolina shall use the directory information relating to directory assistance charges as included in Appendix "C" to place in its telephone directories.

6. That Western Carolina shall file monthly reports on the conversion of coin pay stations to the $.20 charge until such conversion is completed. The reports shall include as a minimum the total number of stations in service by class (public, semipublic) and type (triple-slot, single-slot) and the number of stations by class and type converted or replaced.

7. That Western Carolina shall offer the option to residential applicants or subscribers to pay for service charges (installation, moves, changes, etc.) where the total exceeds $15.00 in two equal payments over the first two billing periods after service work is completed unless Applicant is a known credit risk to the company, and Western Carolina shall include this provision in its tariff filings.

8. That Western Carolina shall provide for one representative month each quarter for the three quarters ending September 30, 1976, December 31, 1976, and March 31, 1977, a report showing:

(a) The number and percent of subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D.A. inquiries per line per month.

(b) The number and percent of local directory assistance inquiries by subscribers placing 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-20, 21-100, and 100+ local D.A. calls per month.

(c) The number of Home Numbering Plan Area toll D.A. inquiries per month.

(d) The monthly number of local directory assistance inquiries from pay stations.

(e) For exempted services furnished for handicapped individuals, the same data requested as in (a) and (b) above.

(f) The number and percent of subscribers billed for directory assistance inquiries.

(g) The revenue billed for directory assistance inquiries.

(h) A general report indicating the date(s) of implementation of directory assistance charges, complaints received, and problems encountered (i.e., traffic, accounting, billing, adjustments, etc.).

(i) The percent and amount of reduction in traffic expense over or under what was estimated for the same month had directory assistance charges not been in effect.

The above data should be based on actual experience for one representative month of the quarter and should be received by the Commission no later than the last day of the month following the end of the quarter.

9. That Western Carolina shall file with the Commission on or before July 15, 1976, a tariff for the Commission's consideration which will reflect the requirement of developers to pay the construction charges applicable to their new residential developments prior to the placement of the facilities, with refund provisions.

10. That Western Carolina shall file with the Commission on or before July 15, 1976, a tariff for the Commission's consideration which will reflect the requirements of seasonal subscribers to contract for service for a 12-month period and to pay no less than 9 months at the full rate during this contract period.

11. That Western Carolina shall file with the Commission on or before July 15, 1976, revised exchange service area maps to reflect those base rate area extensions in accordance with those revisions proposed by the company in its letter of January 5, 1976, in said docket.

12. That the service objectives established by the Commission in Docket No. P-58, Sub 93, shall remain in full force and effect and that the Commission Staff shall continue to evaluate Western Carolina Telephone Company's progress towards providing an adequate and efficient level of service in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
WESTERN CAROLINA TELEPHONE COMPANY
DOCKET NO. P-58, Sub 99

EXCHANGE RATE GROUPS
Monthly Flat Rates

| Group | Main Stations and Equivalents | Residence 1-Pty. | Residence 2-Pty. | Residence 4-Pty. | Business 1-Pty. | Business 2-Pty. | Business 4-Pty. |
|---|---|---|---|---|---|---|---|
| 1 | 0- 4,000 | $12.10 | $11.30 | $ 9.80 | $30.40 | $28.90 | $26.40 |
| 2 | 4,001- 8,000 | 12.50 | 11.70 | 10.20 | 31.40 | 29.90 | 27.40 |
| 3 | 8,001-16,000 | 12.90 | 12.10 | 10.60 | 32.40 | 30.90 | 28.40 |
| 4 | 16,001-32,000 | 13.30 | 12.50 | 11.00 | 33.40 | 31.90 | 29.40 |
| 5 | 32,001-Up | 13.70 | 12.90 | 11.40 | 34.40 | 32.90 | 30.40 |

| Exchange | Applicable Local Exchange Rate Group |
|---|---|
| Andrews | 2 |
| Bryson City | 1 |
| Cashiers | 1 |
| Cherokee | 1 |
| Cooleemee | 1 |
| Cullowhee | 2 |
| Franklin | 2 |
| Highlands | 1 |
| Marion | 3 |
| Old Fort | 3 |
| Sylva | 2 |
| Weaverville | 5 |

See official file for Appendices "A," "B," and "C."

DOCKET NO. P-55, SUB 758

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | | |
|---|---|---|
| The Proposed Sale of Certain Utility Systems Under the Jurisdiction of and Operated by the University of North Carolina at Chapel Hill and Approval by the North Carolina Utilities Commission of any Acquisition thereof by any Public Utility Under the Jurisdiction of the Commission | ) ) ) ) ) ) ) | ORDER APPROVING SALE AND ACQUISITION OF UNIVERSITY TELEPHONE UTILITY |

BY THE COMMISSION: On August 24, 1976, a Joint Application was filed with the Commission by (1) the University of North Carolina at Chapel Hill (U.N.C. or the University), acting as an Agency of the State of North Carolina through the authority of its Board of Trustees, and (2) Southern Bell Telephone and Telegraph Company (Southern Bell), a public utility as defined by G.S. 62-3(23)a.1. Such Application, which was filed pursuant to Section 8 of Chapter 723 of the 1971 Session Laws of North Carolina, requests approval by this Commission of the sale of the University Telephone System to, and its acquisition by, Southern Bell in accordance with the terms and conditions of the Agreement of Sale and Purchase incorporated as a part of the Application.

By cover letter filed with the Application and by further letter and attachments dated August 27, 1976, the Attorney representing the University and the State of North Carolina, on behalf of the Attorney General of the State of North Carolina, requested the Commission to expedite its ruling with regard to the proposed sale and acquisition by Southern Bell of the University Telephone System. The Commission's role in this proceeding is governed by the provisions of Chapter 723 of the 1971 Session Laws of North Carolina. This Act provides a special procedure to determine whether or not the telephone utility and certain other utilities serving the University and the Town of Chapel Hill should be retained or sold and, if sold, a mechanism to implement such sale. Briefly, the procedure provided by the Act is as follows:

1. The Governor of North Carolina was directed to appoint a Special Commission to study the feasibility or desirability of obtaining, leasing, transferring or selling certain utility properties operated by the University of North Carolina.

2. The report and recommendations of the Special Commission were to be transmitted to the Board of Trustees of the University of North Carolina.

3. The Board of Trustees could approve, disapprove or modify any portion of the report or recommendations of the Special Commission.

4. Upon approval of all or any part of the action recommended by the Special Commission, the Board of Trustees of the University of North Carolina, through its Executive Committee, was empowered to proceed with the action approved. If a sale or other transfer were approved, the Special Commission was empowered to proceed with the negotiations for such sale or transfer.

5. The Special Commission, in negotiating such sale, was directed to consider the interests of the State of North Carolina, the University of North Carolina, the employees of

the systems involved and the customers served by such systems.

6. Any agreement of sale, lease, transfer or other disposition of utility system property was to be approved by the Board of Trustees of the University, the Governor and the Council of State.

7. The form of the consideration, but not the amount, was to be approved by the State Treasurer.

8. Finally, the acquisition of such utility property by a public utility, as defined by G.S. 62-3(23), was subject to approval by this Commission, "except as to the compensation to be paid therefor."

The Special Commission was required by Chapter 723 to consult, from time to time, with this Commission concerning the ability and capacity of each prospective purchaser of the utility properties to render proper service. The Special Commission has provided this Commission heretofore with copies of the Prospectus of Sale, the bids accepted for negotiation and other data regarding the sale and acquisition proposed herein and has solicited advice from the Commission concerning prospective purchasers. The Special Commission has also kept this Commission informed about the ongoing course of the negotiations which culminated in this Application.

Based on the foregoing, the verified Application, the Commission's official files with respect to Southern Bell, particularly Docket No. P-55, Sub 742, and other Commission files and records pertinent thereto, the Commission now makes the following

FINDINGS OF FACT

1. The University of North Carolina at Chapel Hill is an agency of the State of North Carolina which is appearing in this cause pursuant to authority properly granted by its Board of Trustees.

2. Southern Bell Telephone and Telegraph Company is a public utility as defined by Chapter 62 of the General Statutes of North Carolina and, as such, is subject to the jurisdiction of this Commission.

3. The joint applicants are lawfully before this Commission pursuant to Section 8 of Chapter 723 of the 1971 Session Laws of North Carolina, seeking approval of the acquisition by Southern Bell of the University telephone utility system owned by U.N.C. at Chapel Hill.

4. The Governor of North Carolina, on November 30, 1971, pursuant to a Special Act of the General Assembly of North Carolina (Chapter 723, Session Laws of 1971) appointed a Utilities Study Commission to study the feasibility of

retaining, selling or otherwise disposing of the telephone, electric, water and sewer systems under the jurisdiction of and operated by the University of North Carolina at Chapel Hill; to make recommendations with regard thereto to the Board of Trustees of the University; and, in consultation with officials of the University, to negotiate and effect the terms of sale or other disposition of any such utilities recommended to and approved by the Board of Trustees.

5. This Special Act of the General Assembly authorized the Board of Trustees of the University and its Executive Committee to take various actions with respect to this matter, including authority for the Executive Committee of the Board of Trustees to proceed with the sale or acquisition of such utilities upon approval by the Board of Trustees of all, or any part of, the recommendations of the Utilities Study Commission.

6. Following its enactment of said Special Act, the General Assembly of North Carolina enacted Chapter 1244 of the Session Laws of 1971, designated "An Act to Consolidate The Institutions of Higher Learning in North Carolina," by which Act the Board of Trustees of the University of North Carolina was redesignated as the Board of Governors of the University of North Carolina effective July 1, 1972. This later Act authorized the Board of Governors of the University of North Carolina to delegate any part of its authority to any one of the Boards of Trustees of the constituent institutions of the University of North Carolina, including the University of North Carolina at Chapel Hill, one of the six (6) institutions originally comprising the University of North Carolina.

7. The Utilities Study Commission, appointed under said Special Act (Chapter 723, Session Laws of 1971), after an extensive study, determined that the interests of all concerned would be best served by the University divesting itself of the majority of its utility holdings, and the Utilities Study Commission submitted its Final Report and Recommendations, as contemplated by Section 3 of said Special Act, to the Board of Trustees of the University of North Carolina at Chapel Hill under date of August 3, 1972, which Report and Recommendations recommended that the University sell all of its telephone utility system, including both on and off campus facilities, with the exception of the Campus Exchange Building which would be leased to the purchaser.

8. The Board of Trustees of the University of North Carolina at Chapel Hill, on August 11, 1972, approved said recommendation and recommended that the Board of Governors of the University of North Carolina approve the Report and Recommendations submitted by the Utilities Study Commission under date of August 3, 1972, and delegate to the Board of Trustees of the University of North Carolina at Chapel Hill the authority assigned to the former Executive Committee of

the University of North Carolina under Section 5 of said Special Act of the General Assembly.

9. The Board of Governors of the University of North Carolina on September 8, 1972, (1) approved the recommendations of the Utilities Study Commission that the University of North Carolina at Chapel Hill should divest itself of certain of the University enterprises in the jurisdiction of, and operated by, the University of North Carolina at Chapel Hill, including the University telephone utility system located both on and off campus, with the exception of the Campus Telephone Exchange Building and the on campus duct-runs which would be leased to the purchaser, and (2) resolved that no plan for the conveyance of such University enterprises would become final or be put into effect and operation until approved by the Board of Trustees of the University and until said Board of Trustees has requested the conveyance of such enterprise or enterprises, and (3) authorized the Board of Trustees of the University to request the Governor and Council of State to approve the conveyance of said enterprises in accordance with the plan approved by said Board of Trustees and the procedures specified in said Special Act of the General Assembly.

10. Upon said action of the Board of Governors of the University, the University telephone utility system and property comprising said system was offered for public sale by Prospectus dated August 17, 1973, in accordance with the authority granted pursuant to said Special Act, under a bid-negotiation procedure.

11. The Utilities Study Commission was empowered under said Special Act, in consultation with the officials of the University, to actually negotiate for and effect the terms of any sale or other disposition of such utilities recommended to and approved by the Board of Trustees. In its consideration of the proper disposition to be made of the utility systems of the University, the Utilities Study Commission received reports and recommendations from its various sub-committees, including a recommendation from its telephone sub-committee which it accepted and adopted and which recommended that the appropriate State authority take the necessary steps to assure participation in the bidding by all potential purchasers.

12. Pursuant to this recommendation, and at the request of the Utilities Study Commission and the University, the Attorney General of North Carolina, on November 16, 1973, filed a Motion before this Commission on behalf of the University and the Utilities Study Commission, which Motion requested and moved that the North Carolina Utilities Commission issue its Order providing, among other things, that, pursuant to the Public Utilities Act of North Carolina and said Special Act and facts within the knowledge of the Commission and such investigation as the Commission should deem desirable, it was in the public interest and that public convenience and necessity required that Southern Bell

Telephone and Telegraph Company participate in the sale procedure for the disposition of the University telephone system and that, based upon such finding, Southern Bell Telephone and Telegraph Company should participate in such sale procedure and submit thereunder a good-faith, competitive bid for the purchase of such system.

13. The Utilities Commission, on November 28, 1973, upon consideration of the Attorney General's Motion, and taking judicial notice of Docket No. P-70, Sub 111, wherein counsel for Southern Bell Telephone and Telegraph Company stated that the Company "has no present desire or willingness to assume any additional or further service obligations in areas which it has not undertaken to serve," issued an Order in Docket No. P-114, Sub 2, requiring Southern Bell to submit a legitimate, good-faith, competitive bid. On December 18, 1973, Southern Bell filed a Motion requesting that the Commission set a public hearing to hear testimony and other evidence of Southern Bell relating to the possibility of the Company submitting a bid to purchase the University owned system and that other utility companies operating in territories contiguous to the University owned system be given actual notice of said requested hearing.

14. The Utilities Commission, on December 20, 1973, upon consideration of the Motion filed by Southern Bell, issued an Order setting hearing for January 3, 1974, and required publication of Notice of said hearing with actual notice to be delivered to other operating telephone companies in contiguous territories. The matter was called for hearing on January 3, 1974, and certain of the operating companies in areas contiguous to the University owned telephone system were present and participated in said hearing, as well as other intervenors.

15. At said hearing, Southern Bell offered the testimony of Mr. B. Franklin Skinner, Vice President and General Manager of the North Carolina area for Southern Bell, who testified regarding reasons for the reluctance of Southern Bell to acquire additional telephone systems. Mr. Skinner stated, in conclusion, that "if the Commission found it to be in the public interest that Southern Bell file a bid for the properties of the telephone system in Chapel Hill, it would make every effort to file a good-faith, bona fide bid prior to the March 1, 1974, deadline."

16. Further testimony at said hearing included the testimony of Mr. Thomas Eller, an attorney in Charlotte, North Carolina, and a member of the Special Utilities Study Commission, who testified that there was a definite need for Southern Bell to participate in the bidding with other potential purchasers for the University owned telephone system. Mr. Eller, as a former member of the Utilities Commission, further testified in detail with respect to his past and present knowledge of Southern Bell's service areas in North Carolina, financial capability, and the quality of

service provided by Southern Bell to its subscribers. Mr. Eller testified that, in his opinion, it was in the public interest for Southern Bell to participate in the bidding. This testimony was supported by the testimony of Mr. John McDevitt, consultant for the Attorney General, working specifically on the disposition of the utilities at the University and a former member of the Utilities Commission, and testimony from other individuals.

17. Upon the conclusion of said hearing, the Utilities Commission, on January 15, 1974, entered its Order in which it concluded, after making certain specific findings of fact, that it was in the public interest to require Southern Bell to submit a legitimate, good-faith competitive bid, along with other potential purchasers, in order to ensure full participation by all potential purchasers. The Commission further concluded that "no legal prohibitions as to Southern Bell's participation in bidding have been cited by any of the parties and none apparently exists," and further that "implicit in the testimony of witness Skinner (there was) an indication that Southern Bell might not bid unless this Commission requires the company to do so in the public interest." The Commission thereupon ordered that Southern Bell Telephone and Telegraph Company submit a legitimate, good-faith competitive bid with respect to the telephone system owned by the University. The Commission thereafter issued a supplemental Order extending the time for Southern Bell to submit such bid to such time provided for the submitting of bids by the Special Commission.

18. Pursuant to said Order of the Utilities Commission, Southern Bell, under date of March 29, 1974, submitted a total bid for the purchase of the University telephone utility property, as of March 1, 1973, in the amount of $18,697,036, said amount to be adjusted upon date of closing as provided in the Agreement of Sale and Purchase, and said bid was formally opened, along with other bids submitted on April 16, 1974.

19. The Utilities Study Commission on September 27, 1974, after carefully weighing all factors and information which it was authorized and directed by Chapter 723 to consider in reaching its determination as to the bidder with whom negotiations should be entered into for the development of an Agreement of Sale of the University telephone utility system and after having conducted full and open public hearings through which it afforded opportunity to members of the general public and employees of the University to express their views regarding the bids received and made public and through which it further afforded opportunity to each of the respective bidders to fully elaborate on and explain further their bids submitted to the extent desired by them, recommended (1) by Resolution duly adopted that negotiations be entered into with Southern Bell to develop an Agreement of Sale of the University telephone utility and (2) by Resolution duly adopted that, upon receiving the approval of the Board of Trustees of the University of North

Carolina at Chapel Hill, negotiations and development of said Agreement be undertaken by a Contract Negotiating Sub-committee (created by the Utilities Study Commission in its September 27, 1974, Resolution).

20. The Board of Trustees of the University, by Resolution duly adopted on October 11, 1974, concurred with the recommendations of the Resolution adopted by the Utilities Study Commission on September 27, 1974.

21. After negotiations between the Utilities Study Commission, acting in consultation with the officials of the University and through the said Contract Negotiating Sub-committee, and Southern Bell, the Utilities Study Commission, by Resolution duly adopted on September 11, 1975, based upon the recommendation of its Contract Negotiating Sub-committee, (1) determined that the conveyance of the University telephone utility system and property to Southern Bell in accordance with the Agreement of Sale and Purchase was in the best interest of the State of North Carolina, the University of North Carolina at Chapel Hill, the employees of the said utility system and University, and those served by the telephone utility system, (2) approved the conveyance of the University telephone utility system in accordance with said Agreement of Sale and Purchase and (3) submitted this Agreement to the Board of Trustees of the University of North Carolina at Chapel Hill for approval.

22. The Board of Trustees of the University, by Resolution duly adopted on June 11, 1976, (1) approved the sale and lease of the University telephone utility system and properties to Southern Bell in accordance with the terms and conditions of the Agreement of Sale and Purchase developed with said Company, (2) requested that the Governor and Council of State approve the said transaction and that the State Utilities Commission approve the said acquisition of said system and properties by said Company and (3) requested that said Agreement and all conveyances and instruments pursuant thereto be executed and consummated, all as provided in the above designated Special Act of the General Assembly.

23. The Board of Directors of Southern Bell Telephone and Telegraph Company, by Resolution duly adopted on June 28, 1976, approved Southern Bell's acquisition and purchase of the University telephone utility in accordance with the terms and conditions of said Agreement of Sale and Purchase.

24. The Governor and Council of State in a meeting held in the City of Raleigh on August 9, 1976, duly approved the conveyance of the University telephone utility system in accordance with said Agreement of Sale and Purchase and duly approved and authorized the execution of said Agreement and, subject to approval by this Commission, the execution of the necessary deeds, leases and other documents therein specified and the consummation of this transaction, for and

on behalf of the University of North Carolina at Chapel Hill.

25. The Commission takes judicial notice of the financial data contained in Docket No. P-55, Sub 742. In that case the Commission found the consolidated Bell System capital structure to be composed of 46.89% debt, 4.33% preferred stock, 42.94% common equity, and 5.84% cost-free capital. The embedded debt cost was 6.90% and the preferred stock cost was 7.83%. The Commission approved a 12.87% return on common equity. Based on the financial data for the 12 months ended March 31, 1976, the return on average common equity was approximately 10.51% on total North Carolina combined operations, which includes the interstate operations. The fixed charge coverage before income taxes was approximately 4.72 times for this same period on North Carolina combined operations. Southern Bell's bonds are currently rated Aaa which is the highest rating obtainable from bond rating agencies. Further, the unadjusted proposed acquisition price of $18,697,036 is only 2.51% of the fair value of Southern Bell's property of $744,108,083 which was fixed by the Commission in Docket No. P-55, Sub 742, based on intrastate plant at December 31, 1974.

26. Southern Bell has demonstrated in rate proceedings before the Commission and in applications for sale of securities that it has a sufficient financial capability to pay the purchase price agreed upon for the telephone plant to be acquired. The property acquired will be revenue producing property and the acquisition will not have an adverse effect upon the other customers of Southern Bell in North Carolina. The Commission takes judicial notice of the financial reports of Southern Bell to the Commission and the cash flow of Southern Bell and finds that after having acquired the University telephone system, Southern Bell will have sufficient financial and service capabilities to provide good and efficient service to the customers of the University telephone system and to maintain good and adequate service to its present customers.

27. That the public interest has heretofore been considered and protected by the Special Commission using the special procedures and approvals set forth in Chapter 723 of the 1971 Session Laws.

Based upon the foregoing Findings of Fact the Commission makes the following

## CONCLUSIONS

The General Assembly of North Carolina has defined and limited the role of the Utilities Commission under the Special Act to the approval of the acquisition of the University telephone utility property in this instance by a public utility, Southern Bell, except as to the compensation to be paid therefor. As set forth in the Findings hereinabove all of the specific procedures with regard to

the sale and acquisition of the University telephone property for protection of the public interest in regard thereto have been meticulously followed by the Special Commission, the University, its Board of Trustees, the Council of State and the Governor of North Carolina.

Under the provisions of the Act the Special Commission has consulted with this Commission during the course of the negotiations concerning the ability and capability of prospective transferees to render proper service and certain matters are of record relating specifically to the Attorney General's Motion requesting the Commission to require Southern Bell to participate in the bidding for the University telephone property.

Based upon a review of Southern Bell's last general rate proceeding in Docket P-55, Sub 742, Order issued December 19, 1975, of which judicial notice is taken, the Commission is of the opinion that approval of the acquisition of University telephone property by Southern Bell will not impair that Company's ability to render adequate service to its existing subscribers.

A thorough review of the verified application indicates that the parties to the Contract involved and all of those agencies having authority to approve the Contract with respect to sale and acquisition contemplate that Southern Bell's present rates constitute a material part of the consideration in the Contract negotiations. Accordingly, the Commission is of the opinion that Southern Bell should be required to file tariffs under its existing rates approved by the Commission and any new tariffs 30 days prior to implementation of Southern Bell's rates. To do otherwise would result in discrimination under provisions of G. S. 62-140 as between the subscribers of the newly acquired University utility and all other Southern Bell subscribers.

The Commission concludes that the joint applicants' request for approval of the Agreement of Sale and Purchase of the University telephone system and acquisition thereof of said telephone system and property by Southern Bell should be approved in accordance with the terms and provisions of the Special Act of the General Assembly.

The Commission notes that Southern Bell on August 24, 1976, filed a Motion requesting that the Commission approve an acquisition adjustment to treat the total purchase price of the University utility properties as if it represents the original cost of that plant when first devoted to public use, less depreciation, and that said proposed adjusted purchase price would actually represent the fair value of that portion of Southern Bell's utility property for rate-making purposes. This Motion need not be considered prior to the approval of the sale and acquisition herein, but rather will be set by subsequent Order of the Commission for presentation by Southern Bell and consideration by the

Commission after notice to the Attorney General of North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the joint application be, and the same hereby is, approved with respect to the Agreement of Sale and Purchase of the University telephone utility system and the acquisition of said utility system and property by Southern Bell in accordance with the terms and conditions of the Special Act of the General Assembly.

2. That Southern Bell shall file appropriate tariffs to implement its present rates for the various classes of service heretofore approved by the Commission, and such tariffs as may be necessary for new service offerings within 30 days from the date said rates are to be implemented.

3. That Southern Bell is herewith required to account for the sale and acquisition of the University telephone utility property pursuant to the Uniform System of Accounts and shall furnish written evidence of the final implementation of the sale and acquisition and written evidence of such accounting.

4. That the Motion filed by Southern Bell on August 24, 1976, requesting approval of an acquisition adjustment for future rate-making purposes shall be set for consideration by further Order of the Commission but shall not affect the sale and approval of the acquisition approved pursuant to this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of September, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. W-537, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application by Walker-in-the-Hills Water System, Inc., Route 1, Walker Road, Waynesville, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Walker-in-the-Hills Subdivision, Haywood County, North Carolina, and for Approval of Rates | ) RECOMMENDED ORDER<br>) GRANTING TEMP-<br>) ORY OPERATING<br>) AUTHORITY<br>) AND APPROVING<br>) RATES |

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, April 28, 1976

BEFORE: Hearing Commissioner Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

John W. Patrick, II, President
Walker-in-the-Hills Water System, Inc.

For the Commission Staff:

Paul L. Lassiter
Associate Commission Attorney
North Carolina Utilities Commission
Post Office Box 991
Raleigh, North Carolina 27602

DEANE, HEARING COMMISSIONER: On February 26, 1976, the Applicant, Walker-in-the-Hills Water System, Inc., filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide water utility service in Walker-in-the-Hills Subdivision, Haywood County, North Carolina, and for approval of rates.

By Order issued on March 16, 1976, the Commission scheduled the application for public hearing and required that public notice of the hearing be given by the Applicant. Public notice was furnished to each customer in Walker-in-the-Hills Subdivision by the Applicant and was published in The Waynesville Mountaineer, Waynesville, 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. John W. Patrick, II, appeared at the hearing as a witness for the Applicant and presented testimony in support of the application. Richard W. Seekamp appeared as a witness for the Commission staff and presented testimony concerning his evaluation of the Applicant's plans for the water utility operations. No one appeared at the hearing to protest the application.

Based on the information contained in the application and in the Commission's files and in the records of this proceeding, the Hearing Commissioner now makes the following

FINDINGS OF FACT

1. The Applicant, Walker-in-the-Hills Water System, 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 Walker-in-the-Hills Subdivsion, Haywood County, North Carolina, and has filed a Schedule of Rates for said service.

3. Walker-in-the-Hills Subdivision is a residential resort subdivision consisting of approximately 3 streets and approximately 100 lots. The subdivision is located adjacent to Secondary Road 1157 in Haywood County.

4. The Applicant has installed water mains capable of serving approximately 50 customers in the subdivision.

5. The Applicant has entered into agreements securing ownership of the water system and of the sites for the wells.

6. There is an established market for water utility service in the subdivision, and such service is 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 Applicant did not submit a chemical analysis of the water in Walker-in-the Hills Subdivision.

8. The water system plans are not approved by the Division of Health Services (formerly the State Board of Health).

9. The annual revenues, based on the proposed flat rate and on 48 customers, would be approximately $1,728 for water service.

10. The Applicant lists its investment in water utility plant as $50,000.00, based on an unverified balance sheet contained in the application.

11. The Applicant will provide maintenance and repair service to the water system in the subdivision.

12. The Applicant has specified that the names, addresses, and telephone numbers of the companies or persons responsible for providing maintenance and repair service to the water system will be listed in a letter accompanying the yearly billing statements. The Applicant will be listed in the telephone book for the proposed service area as John W. Patrick.

13. The Applicant desires to give the water system in Walker-in-the-Hills Subdivision to the present users of the

system since Mr. Patrick is leaving the state and will be unable to care for the system.

## CONCLUSIONS

There will be a demand and need for water utility service in Walker-in-the-Hills Subdivision which can best be met by the Applicant.

The initial rates approved by the Commission for water utility service in Walker-in-the-Hills 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.

The Applicant's arrangement for providing maintenance and repair service to the water system in Walker-in-the-Hills is acceptable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, John W. Patrick, II, d/b/a Walker-in-the-Hills Water System, Inc., is hereby granted Temporary Operating Authority in order to provide water utility service in Walker-in-the-Hills 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 Temporary Operating Authority.

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.

4. 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 the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant with the mailing of this Order.

5. 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.

6. That the Applicant shall submit a chemical analysis of the water in Walker-in-the-Hills Subdivision within thirty (30) days of the date of this Order.

7. That the Applicant shall attempt to obtain approval of its water system from the Division of Health Services within four (4) months of the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-537, SUB 1
John W. Patrick, II
d/b/a
Walker-in-the-Hills Water System, Inc.

Walker-in-the-Hills
Haywood County
(TEMPORARY OPERATING AUTHORITY)

WATER RATE SCHEDULE

FLAT RATES: (Residential Service)

$36.00 per year.

CONNECTION CHARGES: None.

RECONNECTION CHARGES: None.

BILLS DUE: On billing date.

BILLS PAST DUE: Fifteen (15) days after end of period for which bill is rendered.

BILLING FREQUENCY: Shall be yearly, for service in arrears.

FINANCE CHARGES FOR LATE PAYMENT: None.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-537, Sub 1 on May 12, 1976.

DOCKET NO. W-43, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of<br>Application by Lafayette Water Corporation,<br>P. O. Box 3037, Fayetteville, North Carolina,<br>for Authority to Increase Rates for Water<br>Utility Service in its Service Area, Cumber-<br>land County, North Carolina | ) ORDER<br>) GRANTING<br>) RATE<br>) INCREASE<br>) |

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, March 3, 1976, at 10:00 a.m.

BEFORE: Chairman Marvin R. Wooten, Presiding, and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Robert G. Ray
Rose, Thorp, Rand & Ray
Attorneys at Law
214 Mason Street
Fayetteville, North Carolina 28302

For the Commission Staff:

Theodore C. Brown, Jr.
Assistant Commission Attorney
North Carolina Utilities Commission
Post Office Box 991
Raleigh, North Carolina 27602

BY THE COMMISSION: On December 4, 1975, Lafayette Water Corporation filed an application with the North Carolina Utilities Commission for approval of increased rates for water utilities service in its service areas in Cumberland County, North Carolina.

By Order of December 12, 1975, the Commission declared the application a general rate case pursuant to G. S. 62-133, suspended for up to 270 days the proposed new rates pursuant to G. S. 62-134, required the Applicant to give public notice of its application, and set the matter for public hearing on March 3, 1976. Public Notice was furnished to each customer by the Applicant, and was published in The Fayetteville Observer, Fayetteville, 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.

The public hearing was held at the time and place specified in the Commission's December 12, 1975, Order. The Applicant offered the testimony of Mr. W. E. Godwin, Jr., President of Lafayette Water Corporation, who testified concerning the Applicant's general utility operations and Phil W. Haigh, Jr., Certified Public Accountant, who testified concerning the Applicant's financial matters. Mr. Jesse Kent, Jr., appeared as a witness for the Commission Accounting Staff. No one appeared at the hearing to protest the application.

Based on the information contained in the application and in the Commission's files and in the record of this proceeding, the Commission now makes the following

FINDINGS OF FACT

1. 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.

2. That the total investment by the Applicant in the water plant in service is $2,042,071.

3. That from the total investment figures, the depreciation reserve of $540,565, contributions in aid of construction of $1,007,230, the average income tax accruals of $1,875, and the average customer deposits of $25,480 must be deducted. Subtracting the total deductions of $1,575,150 from the total investment figure produces an original cost net investment of $466,921.

4. That the Applicant's revenues under its existing rates for the twelve months ending December 31, 1975 (the test period), were $238,675.

5. That the Applicant would have collected $395,766 in revenues during the test period under its proposed rates.

6. That the Applicant's expenses after adjustments for the test period totaled $266,024.

7. That the Applicant's expenses during the test period under its proposed rates would have been $329,951.

8. That under the Applicant's present rates, the rate of return on the original cost net investment is a negative 4.81% and the operating ratio is 111.46%. Under the Applicant's proposed rates, the rate of return would be 15.40% and the operating ratio 83.37%.

Based on the foregoing Findings of Fact, the Commission now reaches the following

## CONCLUSIONS

The Commission concludes that an operating ratio of 83.37% would produce a fair and reasonable return. This ratio will produce total operating revenues of $395,766 which yields a rate of return of 15.40% on the original cost net investment.

IT IS, THEREFORE, ORDERED as follows:

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 for water service billed to customers on or after March 31, 1976.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-43, SUB 10
Lafayette Water Corporation

Lafayette Village, Evergreen Estates, Vilmar Heights
Drake Park, Gallup Acres, Montclair, Irish Gardens
Crystal Park, Cottonade, Summerhill

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 - $ .55 per 1,000 gallons

CONNECTION CHARGES: $350.00 per tap

RECONNECTION CHARGES:

If water service cut off by utility for good cause - $4.00 [N.C.U.C. Rule R7-20(f)]

If water service discontinued at customer's request - $2.00 [N.C.U.C. Rule R7-20(g)]

BILLS DUE: On billing date

BILLS PAST DUE: Fifteen (15) days after billing date

BILLING FREQUENCY: Shall be monthly, for service in arrears

FINANCE CHARGES FOR LATE PAYMENT:

One percent (1%) per month will be applied to the unpaid balance on all bills still past due twenty-five (25) days after billing date.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-43, Sub 10 on March 11, 1976.

DOCKET NO. W-319, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of | |
| Application by White Oak Water Company, | ) RECOMMENDED |
| Post Office Box 1168, Wilson, North | ) ORDER |
| Carolina, for Authority to Increase | ) APPROVING |
| Rates for Water Utility Service in | ) INCREASED |
| White Oak Acres - West Subdivision, | ) RATES |
| Wilson County, North Carolina | ) |

HEARD IN: District Courtroom No. 1, Second Floor, Wilson County Courthouse, Corner of Nash and Goldsboro Streets, Wilson, North Carolina, on January 21, 1976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Applicant:

Louis B. Meyer, Lucas, Rand, Rose, Meyer, Jones & Orcutt, Attorneys at Law, First Union National Bank Building, Wilson, North Carolina 27893

For the Commission Staff:

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

For the Intervening Customers:

G. K. Butterfield, Jr., Fitch, Butterfield and Sumner, Attorneys at Law, 615 E. Nash Street, Wilson, North Carolina 27893

PARTIN, HEARING EXAMINER: On September 29, 1975, the Applicant, White Oak Water Company, filed an application with the North Carolina Utilities Commission for authority to increase its rates for water utility service.

By Order issued October 15, 1975, the Commission declared the matter a general rate case, suspended the proposed rates pursuant to G. S. 62-134, scheduled the matter for public hearing in Raleigh, and required the Applicant to give public notice of its application. By subsequent Order issued on November 12, 1975, the Commission rescheduled the hearing in order that it could be held in Wilson, North Carolina.

Public Notice was furnished to each customer by the Applicant and was published in The Wilson Daily Times, Wilson, North Carolina. The Notice stated that anyone desiring to protest the application, or to intervene, should file their protest or intervention with the Commission by the date specified in the Notice.

The Applicant offered the following witness who testified at the hearing in support of the application: J. Charles Anthony, owner of White Oak Water Company.

The Commission Staff offered the testimony of Jesse Kent, Jr., Commission Staff Accountant, who testified on the original cost net investment, revenues, and expenses of the Applicant; Joe Chesson of The Chesson Agency, who manages the Applicant's system and handles the billing; and E. Leo Green of E. Leo Green and Associates, the Applicant's consulting engineer.

Mr. Henry Harrison, Mr. Luther Jones, Jr., and Mrs. Dora Vines Robinson, customers of the Applicant, testified in protest to the proposed rate increase and described problems with the water utility service they have received from the Applicant.

The Hearing Examiner takes judicial notice of the proceeding in Docket No. W-319 wherein the Applicant was granted a Certificate of Public Convenience and Necessity to provide water utility service in White Oak Acres - West.

Based on the information in the application and in the Commission's files and on the testimony and exhibits presented at the hearing, the Hearing Examiner makes the following

## FINDINGS OF FACT

1. White Oak Water Company was granted a Certificate of Public Convenience and Necessity to provide water utility service in White Oak Acres - West Subdivision by Commission Order issued on January 12, 1972, in Docket No. W-319.

2. According to the original application in Docket No. W-319, most of the system was built during 1970-1971.

3. The State Board of Health issued a letter of approval dated November 16, 1971, approving the plans of the White Oak Acres - West Subdivision water system. This letter

specified that a second well was to be developed before the fifty-first customer connection was made to the system. Construction of the second well had been started but was not completed as of the hearing date in this proceeding, January 21, 1976.

4. At the time of the hearing there were approximately seventy-one (71) customer connections on the Applicant's system.

5. Customer complaints against this system were primarily concerned with outages of up to several days which resulted from breakdowns of the water system. Such outages occurred at least five times during the test year. A second or back-up well might have prevented these outages from occurring.

6. The Applicant's revenues under its present rates for the test period were $5,082.

7. The Applicant would collect $10,224 in revenues under its proposed rates.

8. The Applicant's reasonable operating expenses during the test period were $6,602.

9. Under the Applicant's present rates, the test period operating ratio was 129.91%.

10. The water service provided by the Applicant during the test period was inadequate.

11. The Applicant is entitled to increase its rates from a flat rate of $6.00 per month to $8.50, which increase will result in an operating ratio of 94.39%. This operating ratio of 94.39% is just and reasonable in view of the inadequate service provided by the Applicant during the test year. If the Applicant's service had been adequate during the test year, the Applicant would have been entitled to an increase in rates that would have produced an operating ratio of at least 90%.

12. As to those customers whose service was discontinued, the Applicant has been charging a reconnection charge of $6.00. (Commission Rule R7-20(f) specifies that the reconnection charge shall be $4.00.)

13. If the customer refuses to pay the reconnection fee and restores his own service, the Applicant then removes either a meter or a section of the customer's service line. A plumbing firm performing this work charges a fee of $12.50. When the meter or section of line is replaced, the plumbing firm again charges a fee of $12.50. The Applicant then charges the total fee of $25.00 to the customer whose water service was discontinued, in addition to the $6.00 reconnection fee mentioned above.

## CONCLUSIONS

### Preliminary Matters

On September 29, 1975, the Applicant White Oak Water Company filed an application for an increase in rates to its customers in the White Oak Subdivision, Wilson County, North Carolina. The Applicant proposed to increase such rates from a flat rate of $6.00 per month to a flat rate of $12.00 per month. The Applicant is presently serving seventy-one (71) customers in the White Oak Subdivision. These customers retained an attorney and intervened in the proceeding.

### The Operating Ratio

In setting rates in this proceeding, the Hearing Examiner adopts the operating ratio formula as authorized by G. S. 62-133.1.

The test year used by the Staff was the 12 months ended November 30, 1975. This test year was sufficient and adequate to reflect the operating conditions of the Applicant.

The Hearing Examiner finds and concludes that the operating ratio of the Applicant during the test year under its existing rates was 129.91%. This ratio is determined as follows:

$$\frac{\text{Test year operating expenses}}{\text{Test year operating revenues}} = \text{Operating Ratio}$$

or

$$\frac{\$6,602}{\$5,082} = 129.91\%$$

Staff Witness Kent testified that the test year operating revenue was $5,082; this figure was not challenged. (Kent Exhibit 1, Schedule 1)

As to the test year operating expenses: in Staff Witness Kent's original testimony and exhibits, the adjusted test year operating expenses were $12,938. (Kent Exhibit 1, Schedule 1) This amount included $5,451 of interest expense. (Kent Exhibit 1, Schedule 3-2, line 7) The Hearing Examiner excludes as an operating expense the $5,451 of interest expense. There was not sufficient probative evidence in this proceeding to establish that the debt on which the interest expense was incurred was the source of funds for the Applicant's investment in utility plant. Mr. Anthony, the Applicant's owner, was unable to show that the debt funds in question had been directly invested in utility plant.1/ In the absence of sufficient proof on this

fundamental issue, the ratepayers should not be required to pay rates to cover the interest expense.

1/ The Hearing Examiner notes that in the Applicant's filing for a franchise in Docket No. W-319, there was no debt shown in the Application.

When the interest expense is excluded, there remains $7,487 of operating expenses out of the $12,938. [See also Kent Exhibit 1, Schedule 3, Column (d), line 8; Mr. Anthony accepted the $7,487 as his "total operating revenue deductions."] During the course of the hearing, Mr. Kent made further adjustments in his testimony and exhibits based upon the prior testimony of the Applicant. These adjustments, which amounted to $885, reduced operating expenses from $7,487 to $6,602. This adjustment of $885 made by Mr. Kent represented expenses that were duplicated in arriving at the Staff's computation of net income.

The Hearing Examiner finds and concludes that the interest expense of $5,451 should be excluded and that the adjustment of $885 made by Mr. Kent at the hearing is proper. Therefore, the Hearing Examiner finds and concludes that the reasonable operating expenses for the test year were $6,602.

The Hearing Examiner approves an increase in rates to $8.50 per month. These new rates will result in an operating ratio of 94.39%. This operating ratio is determined as follows:

$$\frac{\text{Operating expenses}}{\text{Operating revenues}} = \text{Operating Ratio}$$

or

$$\frac{\$6,836}{\$7,242} = 94.39\%$$

The $7,242 of operating revenues results from the $2.50 increase per month per customer. The operating expenses of $6,836 result from test year operating expenses of $6,602, plus $234 of additional gross receipts tax, and state and federal income taxes.

## Rates and Service

In setting rates, the Hearing Examiner must consider not only the operating ratio of the Applicant but also the Applicant's quality of service to its customers. Utilities Comm. v. Morgan, 277 N.C. 255. The evidence in this proceeding supports a finding that the Applicant's service during the test year was inadequate, and the Hearing Examiner so concludes.

There is testimony that the Applicant's water service was "out" during the following times in 1975:

(1) The Easter weekend (3 days)
(2) The Fourth of July (3 days)
(3) July 26, 1975
(4) Labor Day weekend (3 days)
(5) Thanksgiving holiday weekend (5 days, except for restoration of service on one day)

There is evidence tending to show that as early as 1971 the Applicant was given notice by the former State Board of Health [now the Division of Health Services] that the Applicant would need a second well in the event its customer connections exceeded fifty-one (51). (This letter from the Board of Health was submitted by the Applicant in its original filing for a franchise in Docket No. W-319.) The Applicant's consulting engineer, Mr. Green, was aware of the Board of Health's policy as to a second well. At the time of the hearing the Applicant served seventy-one (71) customers on one well. The frequent and prolonged disruption of service during 1975 was sufficient in itself to put the Applicant on notice that a second back-up well was urgently needed. Yet, the Applicant did not begin the construction of such a well until November, 1975. This second well had not been completed at the time of the hearing in January, 1976. If the Applicant's system had had a second well in 1975, the customers would most likely have been spared great inconvenience and discomfort, as well as risk to their health. (See the testimony of Henry Harrison, a customer.) Consequently, as a result of Applicant's inadequate service, the Hearing Examiner will approve such rates to produce an operating ratio of 94.39%. Had the Applicant provided adequate service during the test year, the Hearing Examiner would have approved rates to produce an operating ratio of at least 90%. This Order will provide that the rates approved herein shall not become effective until the Commission has received written notification that the second well has been constructed and is actually in service.

Other Matters

It was established during the hearing that the Applicant was charging its customers a reconnection charge of $6.00. It was also shown that, in addition to the $6.00 charge, the customers were sometimes charged an additional $25.00 for plumbing expenses. (Findings of Fact Nos. 12 and 13)

The Commission Rule R7-20(f) provides that, whenever the water supply is turned off by the utility for nonpayment of bill or fraudulent use of water, the reconnection charge "shall not exceed four dollars ($4.00) for restoring said service."

In addition to Rule R7-20(f), attention is called to the Commission's Order of January 12, 1972, in Docket No. W-319,

granting the Applicant a franchise. Finding of Fact No. 11 states:

"11. The provision in the Applicant's proposed rates specifying $7.50 charges for disconnection and for reconnection may be excessive, and such a provision specifying reconnection charges of $4.00 under N.C.U.C. Rule R7-20(f), and of $2.00 under N.C.U.C. Rule R7-20(g) would be just and reasonable."

The Water Rate Schedule approved by the January 12, 1972, Order, and attached thereto as Appendix "A", provides:

"RECONNECTION CHARGES
N.C.U.C. Rule R7-20(f) - $4.00
N.C.U.C. Rule R7-20(g) - $2.00"

It would appear, therefore, that the Applicant has overcharged its customers for reconnection service in persistent violation of the Commission's Rules and the Water Rate Schedule approved for the Applicant on January 12, 1972. The fact that Mr. Anthony has delegated the management of his water system to The Chesson Agency does not excuse his responsibilities and obligations under the Public Utilities Law. These responsibilities include the proper charging of water utility service in accordance with the approved tariff and the Commission's Rules.

The Hearing Examiner concludes that the Applicant should discontinue charging any reconnection fees in excess of the $4.00 fee provided in N.C.U.C. Rule R7-20(f) and in its tariff.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. 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 after the conditions set out in Paragraph No. 2 below are complied with.

2. That the Schedule of Rates approved above shall become effective only after written authorization from the Commission. Such authorization shall be forthcoming from the Commission only after the Commission has received written notification from the Applicant that a back-up well has been installed in White Oak Acres - West and that said well is actually in service.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of March, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-319, SUB 1
WHITE OAK WATER COMPANY
White Oak Subdivision
Wilson County

WATER RATE SCHEDULE

FLAT RATES: (Residential Service) $8.50 per month.

CONNECTION CHARGES: None.

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 DUE: On billing date.

BILLS PAST DUE: Fifteen (15) days after billing date.

BILLING FREQUENCY: Shall be monthly, for service in arrears.

FINANCE CHARGES FOR LATE PAYMENT:
1% per month will be applied to the unpaid balance of all bills still past due twenty-five (25) days after billing date.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-319, Sub 1 on March 12, 1976.

DOCKET NO. W-274, SUB 18

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| In the Matter of | |
|---|---|
| Application by Heater Utilities, Inc., Post Office Box 549, Cary, North Carolina, for Approval to Borrow $325,000 and Execute a Refinancing Plan | ) ORDER APPROVING A ) LOAN OF $325,000 ) AND A REFINANCING ) PLAN |

On May 13, 1976, Heater Utilities, Inc. (the Company) filed an application with this Commission for approval by the Commission to borrow from the Carolina Bank of Sanford, North Carolina, $325,000 repayable with interest at 10.25%

on a twelve-year amortization schedule over a period of sixty months and to use the funds in a refinancing plan.

## FINDINGS OF FACT

1. Heater Utilities, Inc., is a South Carolina Corporation domesticated in North Carolina and it holds a franchise to serve 22 service areas in North Carolina as of December 31, 1975. It also holds franchises to operate several water and sewer systems in South Carolina. The South Carolina operations account for about 71% of total operating revenues. For the 12 months ended September 30, 1975, Heater Utilities, Inc. operating revenues were as follows:

| | | |
|---|---|---|
| North Carolina Water | $107,496 | 28.9% |
| South Carolina Water | 182,353 | 49.0% |
| South Carolina Sewer | 82,248 | 22.1% |
| Total | $372,097 | 100.0% |

As of December 31, 1975, there were 1,175 customers being served in the 22 North Carolina service areas.

2. The owners of Heater Utilities, Inc. also own Heater Well Company, Inc. of Cary, North Carolina. Heater Well Company, Inc. is engaged in the well drilling and associated water and sewer maintenance and service business including the selling of pumps and parts required in the industry.

3. Since the incorporation of Heater Utilities, Inc. in May, 1966, to the present, Heater Well Company, Inc. has performed services and sold supplies and parts to the Heater Utilities, Inc. During this period of time, Heater Well Company, Inc. extended credit to Heater Utilities and did not insist on keeping the account balance in a current status. As reflected in the application and verified by annual reports filed with the Commission and the Commission staff audit report in the last general rate case (Docket No. W-274, Sub 14), the accounts payable balances to Heater Well Company by Heater Utilities has been as follows:

| | |
|---|---|
| 12-31-71 | $ 57,077.91 |
| 9-30-72 | 91,041.19 |
| 9-30-73 | 158,013.76 |
| 9-30-74 | 181,314.82 |
| 9-30-75 | 169,149.51 |
| 2-29-76 | 188,117.18 |

4. In addition to the buildup in the acccunts payable account to Heater Well Company, Heater Utilities has had to engage in various types of financing methods to acquire equipment and working capital needed to operate the utilities. A list of these short- and long-term loans was filed with the application including those loans which are slated to be paid off or refinanced by the new loan and which total approximately $96,000.

5. The composite interest rate on the outstanding indebtedness is about equal to the new proposed rate of 10 1/4%; however, the repayment schedule of the principal and interest on the new loan is such that the total monthly payments for the first five-year period is less for the entire loan than the current repayment schedule of the $96,000 to be refinanced. This is possible because of the ballooned final payment (60th) scheduled to be $236,870.82 at the end of five years at which time it is anticipated that the loan outstanding will be refinanced for another term.

The refinancing program results primarily from three reasons:

(1) Heater Well Company has been advised by its independent auditors (Ernst & Ernst) that it can no longer carry the $169,000 (as of September 30, 1975) accounts receivable due from Heater Utilities Company in the current assets section of Heater Well Company because of the long-term accumulation and non-payment of the account. This action of reclassification will put the Heater Well Company in a negative current ratio position (current assets to current liabilities - a liquidity test sometimes referred to as the acid test) and thereby prohibit it from being able to bond its work.

(2) Heater Utilities, Inc. has finally found a lender that will make it a loan in sufficient amount to refinance on reasonable terms both as to repayment schedule and interest rate. Water companies have a very difficult time locating lenders and it does appear that Heater Utilities is fortunate in securing this type loan.

Heater Utilities in its application states that it has tried through the Small Business Administration, Farmers Home Administration, direct individual loans, insurance company loans, bank loans, and foundation loans without success to secure adequate financing.

(3) The desire by the owners of Heater Utilities to have the utility company on its own financial foundation.

6. Because of the common ownership of Heater Well Company and Heater Utilities, Inc. and the fact that about 52% ($169,000 of the $325,000) of the proposed loan is to be used to pay off an accumulated accounts payable to Heater Well Company, the reasonableness of the charges making up this obligation is important. To test this reasonableness, Heater Utilities was requested and did furnish its policies on the pricing of services and products which have been charged to it by Heater Well Company. The formal written response to this request was filed as a part of the application in letter form by R. B. Heater, President of Heater Utilities, Inc.

To further verify the reasonableness of these types of transactions, a review was made of the last Commission staff audit performed by Staff Accountant, Jesse Kent, on the Heater Utilities, Inc. operations (Docket No. W-274, Sub 14, audit dated March 15, 1974, for the year ended September 30, 1973) concerning the examination of the methods used in allocating joint costs between the two companies. The audit report indicates that no exception to the transfer charges were noted and Mr. Kent stated that he thought the methods used were fair and produced reasonable results.

7. The loan will be backed by the pledge of real property under mortgage in the State of South Carolina owned and used by Applicant in its South Carolina operations. The assignment as collateral of certain shares of stock in Heater Utilities, Inc. and the personal endorsement of certain of the shareholders of Heater Well Company, Inc.

8. The proceeds of the loan are to be used approximately as follows:

| | |
|---|---|
| Reduce accounts payable to Heater Well Company, Inc. | $160,000 |
| Reduce Heater Utilities, Inc. short-term accounts payable | 6,600 |
| Reduce Heater Utilities, Inc. accounts payable and accrued expenses | 64,400 |
| Reduce Heater Utilities, Inc. long-term debt | 89,000 |
| Increase Heater Utilities, Inc. cash working capital | 5,000 |
| | $325,000 |

9. The approximate monthly cash requirement to service Heater Utilities outstanding debt as of September 30, 1975, including interest and principal payments is $6,896 before and $6,306 after proposed refinancing.

## CONCLUSIONS

Upon review and study of the verified application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the Company is a public utility subject to the jurisdiction of this Commission with respect to its rates, service and securities issues and that the proposed transaction is:

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

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by the Company 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 Heater Utilities, Inc., be, and it is hereby authorized, empowered and permitted under the terms and conditions set forth in the application:

1. To borrow the principal sum of $325,000 from The Carolina Bank of Sanford, North Carolina, repayable with interest at 10.25% on a twelve-year amortization schedule over a period of sixty months at the rate of $3,931.09 per month for fifty-nine payments with a final payment in the amount of $236,870.82. Assuming satisfactory compliance with the installment payments, the lender will undertake a similar repeat loan or loans until the indebtedness is fully liquidated.

2. To execute or enter into the Loan Agreement with The Carolina Bank of Sanford, North Carolina, as well as other documents as may be necessary or desirable in connection with the loan and refinancing plan as contemplated in the Company's application to this Commission, and

3. To use the net proceeds from the transaction for the purposes set forth in the application and recited in Finding of Fact No. 8 in this Order.

IT IS FURTHER ORDERED THAT:

1. The Company report the consummation of the transaction to the Commission within thirty (30) days after such transaction is consummated (including the expenses incurred in connection therewith) and within such time it shall file with the Commission copies of the Loan Agreement entered into by the Company and The Carolina Bank in the final form in which the agreement is executed; and

2. This proceeding be and the same is continued on the docket of the Commission, without day, for the purpose of receiving the report as hereinabove provided and nothing in this order shall be construed to deprive this Commission of its regulatory authority under law.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of May, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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| 8. | Hawkins, Paul, & Company, Inc., from Camps Atchley Well Co. | W-550 | 1-22-76 |
| 9. | Helms Water Company from Hunter Water Company | W-592 | 6-25-76 |
| 10. | Hensley Enterprises, Inc., from Country Club Estates, Inc. | W-89, Sub 14 | 10-20-76 |
| 11. | Letco, Inc., from Hickory Hills Service Company, Inc. | W-599 | 8-16-76 |
| 12. | Linville Land Harbors Utility Company from Carolina Caribbean Utility Company | W-598 | 6-7-76 |
| 13. | M & F Sales Company from Dogwood Estates Mobile Home Park | W-584, Sub 1 | 9-23-76 |
| 14. | Mecklenburg Utilities, Inc., from Bill Allen Enterprises, Inc. | W-617 | 9-21-76 |
| 15. | Mercer Environmental Corporation from Hickory Hills Service Company, Inc. | W-198, Sub 9 | 3-24-76 |
| 16. | Neighborhood Water Association, Inc., from L. L. McGinnis | W-615 | 10-26-76 |
| 17. | Parris, Steddy Durbin, Jr., from Rushing Agency, Inc. | W-563 | 3-24-76 |
| 18. | Penn Properties, Inc., from Hickory Hills Service Company, Inc. | W-586 | 6-8-76 |
| 19. | Piedmont Construction & Water Company from Clearview Acres Water Company, James M. Taylor, d/b/a | W-262, Sub 18 | 11-9-76 |
| 20. | Rivercrest Builders, Inc., from Mangum Construction Company, Inc. | W-591 | 6-25-76 |
| 21. | Rivercrest Builders, Inc. Errata Order | W-591 | 7-8-76 |
| 22. | Spring Water Company, Inc., from Juel E. Sox, d/b/a Spring Water Company | W-337, Sub 2 | 1-22-76 |
| 23. | Surry Water Company, Inc., | W-314, Sub 14 | 2-10-76 |

from Jack A. Underdown
Property Management, Inc.

F. Miscellaneous

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| 1. Aycock, Ben, Water Service<br>Order Amending Tariff | W-8, Sub 8 | 9-3-76 |
| 2. Aycock, Gene, Water Company<br>Order Authorizing Name<br>Change from Ben Aycock<br>Water Company | W-8, Sub 10 | 12-21-76 |
| 3. Land Harbor Utility Company<br>Order Approving Special Rule | W-598, Sub 1 | 12-20-76 |
| 4. Mason, Mrs. C. G., Sr. - Order<br>Granting Authority to Dis-<br>continue Water Utility Service | W-429 | 11-1-76 |