SIXTY-SEVENTH REPORT

of the

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1977, through December 31, 1977

*Robert K. Koger, Chairman

Ben E. Roney, Commissioner

**Dr. Leigh H. Hammond, Commissioner

***Sarah Lindsay Tate, Commissioner

****Dr. Robert Fischbach, Commissioner

*****John W. Winters, Commissioner

******Edward B. Hipp, 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.

*Appointed May 24, 1977, and Appointed Chairman replacing Tenney I. Deane, Jr., August 23, 1977
**Appointed May 24, 1977, replacing W. Scott Harvey
***Appointed May 24, 1977, replacing J. Ward Purrington
****Appointed July 1, 1977, replacing Barbara A. Simpson
*****Appointed July 1, 1977, replacing W. Lester Teal, Jr.
******Appointed October 21, 1977, to fill the unexpired term of Tenney I. Deane, Jr.

LETTER OF TRANSMITTAL

December 31, 1977

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, 1977, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1977, and ending December 31, 1977.

Respectfully submitted,

NORTH CAROLINA UTILITIES COMMISSION

Robert K. Koger, Chairman

Ben E. Roney, Commissioner

Dr. Leigh H. Hammond, Commissioner

Sarah Lindsay Tate, Commissioner

Dr. Robert Fischbach, Commissioner

John W. Winters, Commissioner

Edward B. Hipp, Commissioner

Katherine M. Peele, Chief Clerk

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of the

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DOCKET NO. M-100, SUB 59

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Deletion of Rule R2-27 of the Commission's Rules and Regulations) ORDER DELETING RULE R2-27

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 the need to maintain and preserve the maximum efficiency and utilization of motor carrier vehicles engaged in transportation operations over the highways of this State, the Commission is of the opinion, finds and concludes, that Rule R2-27 of the Rules and Regulations of the North Carolina Utilities Commission, presently being as follows:

"Rule R2-27. DUAL OPERATIONS - No motor freight common carrier shall transport any property as a contract carrier which said carrier is authorized to transport as a common carrier."

should be deleted.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That Rule R2-27 of the Rules and Regulations of the North Carolina Utilities Commission being as follows:

"Rule R2-27. DUAL OPERATIONS - No motor freight common carrier shall transport any property as a contract carrier which said carrier is authorized to transport as a common carrier."

be, and the same is hereby, deleted.

(2) That a copy of this Order be served upon all motor freight carriers authorized by this Commission to operate in a dual capacity as both a common and contract carrier in intrastate operations within the State of North Carolina.

ISSUED BY ORDER OF THE COMMISSION.
This the 21st day of September, 1977.

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

DOCKET NO. M-100, SUB 69

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Emergency Operating Authority for Transportation of Petroleum and Petroleum Products During Pending Energy Crisis in Bulk in Tank Trucks	) ORDER AUTHORIZING EMERGENCY) TRANSPORTATION OF PETROLEUM) AND PETROLEUM PRODUCTS IN) BULK IN TANK TRUCKS)

BY THE COMMISSION: This proceeding is before the Commission on the Commission's own motion and upon the verbal request of representatives of petroleum jobbers and distributors for the Commission to grant emergency operating authority to operators of properly licensed and insured vehicles to transport petroleum and petroleum products during the energy crisis.

The Commission has made an investigation with other motor carriers of petroleum and petroleum products under G.S. 62-265 and has determined that major petroleum carriers in North Carolina are utilizing their equipment to maximum capacity and cannot accept needed additional loads of petroleum products under the present operating conditions.

The Commission is therefore of the opinion that the provisions of G.S. 62-265 authorize the Commission to grant emergency authority for transportation of petroleum and petroleum products on a temporary basis during the period of the emergency, so that any person operating properly licensed and properly insured motor vehicles may be authorized to transport petroleum and petroleum products between all points and places in North Carolina during the period of the present energy crisis until further Order of the Utilities Commission.

Based upon the above investigation and upon judicial notice of the declaration of an energy crisis emergency by the Governor of North Carolina pursuant to G.S. 143B-2, the Commission finds that a real emergency exists in the shortage of existing authorized motor common carrier equipment for transportation of petroleum and petroleum products in bulk in tank trucks, and that the emergency needs for delivery of petroleum and petroleum products throughout North Carolina are immediate, pressing and necessary in the public interest and requires the issuance of emergency authority for such transportation to all parties operating properly licensed and properly insured motor vehicles.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That any person operating a properly licensed for hire vehicle with proper insurance for the protection of the public is hereby granted temporary emergency authority to transport petroleum and petroleum products in bulk in tank

trucks between all points and places in the State of North Carolina during the pending energy crisis and until further Order of the Commission terminating this emergency authority.

2. Any person transporting petroleum and petroleum products under this temporary emergency authority shall charge the same rates and charges for said transportation as are on file with the North Carolina Utilities Commission for the transportation of petroleum and petroleum products.

ISSUED BY ORDER OF THE COMMISSION.
This 17th day of February, 1977.

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

DOCKET NO. M-100, SUB 69

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Emergency Operating Authority for Transportation of Petroleum and Petroleum Products During Pending Energy Crisis in Bulk in Tank Trucks	) ORDER TERMINATING EMERGENCY AUTHORITY FOR TRANSPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS IN BULK IN TANK TRUCKS

BY THE COMMISSION: On February 17, 1977, the Commission entered an Order Authorizing Emergency Transportation of Petroleum and Petroleum Products in Bulk in Tank Trucks, pursuant to G.S. 62-265, to alleviate the urgent and emergency need for additional transportation facilities for petroleum and petroleum products in bulk during the energy crisis of the winter heating season in January, February and March 1977.

The Commission takes judicial notice that the winter heating season is now completed and the emergency need for additional facilities for transportation of petroleum products for the winter heating season no longer exists.

Based upon the termination of the emergency conditions which existed during the winter heating season, the Commission finds that the emergency no longer exists and that the Order Authorizing Emergency Transportation of Petroleum and Petroleum Products in Bulk in Tank Trucks should be terminated and cancelled.

IT IS, THEREFORE, ORDERED that the Commission's Order of February 17, 1977, authorizing emergency transportation of petroleum and petroleum products in bulk in tank trucks is hereby terminated and cancelled, and no person is authorized to transport petroleum and petroleum products in bulk in tank trucks for hire except upon a valid Certificate of Public Convenience and Necessity or Permit or exempt

authority duly issued by the Utilities Commission and in good standing under the Rules and Regulations of the Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This 27th day of April, 1977.

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

DOCKET NO. M-100, SUB 70

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Revision of Rule R5-4, Paragraph (b) thereof, of the Commission's Rules and Regulations	) ORDER AMENDING RULE) R5-4, PARAGRAPH (b)) THEREOF

BY THE COMMISSION: Notice is hereby given that 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, is of the opinion, finds and concludes, that Rule R5-4, Paragraph (b) thereof, of the Rules and Regulations of the North Carolina Utilities Commission, presently reading as follows:

"Rule R5-4. Duty of Inspector Upon Apprehending Violation. - (b) Inspectors and investigators shall not bear arms, and if any violator should resist lawful arrest or inspection, the Inspector shall seek assistance from members of the State Highway Patrol or local law-enforcement officers or make complaint for appropriate warrant to be executed by properly protected law-enforcement officers."

should be deleted in its entirety from Rule R5-4.

IT IS, THEREFORE, ORDERED:

That Rule R5-4 of the Rules and Regulations of the North Carolina Utilities Commission be, and the same is hereby, amended by the deletion therefrom of Paragraph (b) thereof in its entirety.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of July, 1977.

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

DOCKET NO. M-100, SUB 72

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Participation in the North Carolina Special Crisis Intervention Program by Electric and Gas Utilities	) ORDER RECOGNIZING SPECIAL PROGRAM) CONDITIONS AND AUTHORIZING PARTI-) CIPATION BY REGULATED GAS AND) ELECTRIC UTILITIES IN NORTH) CAROLINA

BY THE COMMISSION: On May 4, 1977, President Carter approved the funding of a $200 million Special Crisis Intervention Program to relieve part of the energy cost burdens of the poor as a result of the recent severe winter and escalating energy prices. Governor Hunt has designated the State Economic Opportunity Office to administer the program in North Carolina. Available funds for the State total $4,020,000.

The Special Crisis Intervention Program funds will be used to make direct payments of up to $250 to utility companies and fuel suppliers on behalf of eligible low-income households, which, because of large unpaid energy/fuel bills, have had their utilities shut off, and/or are threatened with inability to obtain delivery of heating fuel. Advance payments of $100 will also be made to utility companies and fuel suppliers for future winter bills of eligible low-income elderly persons who have experienced a financial hardship as a result of the previous winter's fuel bills.

In order to participate in the program, regulated utilities, as well as other fuel suppliers, must agree to abide by the approved program conditions and requirements, which include the arrangement of deferred payment plans for those customers with account balances remaining outstanding after application of the Special Crisis Intervention Program payment and deferred payment arrangements on deposits required of recipients of Special Crisis Intervention Program payments. These conditions are specified in the Agreement for Participation in the program to be signed by each participating utility and the North Carolina Economic Opportunity Office.

The Commission is of the opinion, and so finds, that said Crisis Intervention Program is in the public interest and that the conditions and requirements therefor are just and reasonable, and should be approved.

IT IS, THEREFORE, ORDERED that regulated natural gas and electric utilities in North Carolina are hereby authorized to participate in the North Carolina Special Crisis Intervention Program and to conform to the approved program conditions established for the treatment of customers for whom payments are made under the Special Crisis Intervention Program.

ISSUED BY ORDER OF THE COMMISSION.
This 29th day of July, 1977.

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

DOCKET NO. M-100, SUB 73

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Amendment to Rule R1-17(d) Relating to Notice of General Rate Application and Hearing	)	ORDER APPROVING AMENDMENT

BY THE COMMISSION: Upon review of G.S. 62-81(b), the Commission is of the opinion that existing Rule R1-17(d) should be amended to establish an appropriate procedure for providing the initial thirty-day notice to customers of the public utilities covered by that statutory provision.

IT IS, THEREFORE, ORDERED as follows:

1. That Rule R1-17(d) be, and the same hereby is, amended to read in its entirety as follows:

> Notice of General Rate Application and Hearing - Within thirty (30) days from the filing of any general rate application by any electric, telephone, natural gas or water utility, such utility shall publish notice to its customers in newspapers having general circulation in its service area as follows:
>
> > (Public Utility) filed a general rate application with the North Carolina Utilities Commission on (date) requesting an increase in additional annual revenues of approximately (Amount of proposed increase in dollars).
> >
> > The Utilities Commission will set a public hearing on the rate application within six months from the date of filing and will require detailed Notice to the Public regarding the proposed rates in advance of the Hearing.
>
> The Commission will thereafter prescribe the form of Notice to the Public in the Order scheduling the Hearing.

ISSUED BY ORDER OF THE COMMISSION.
This 12th day of September, 1977.

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

DOCKET NO. M-100, SUB 74

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rule R4-12 - Procedure for Approval of) ORDER ADOPTING RULE
Joint Rate Agreements Among Carriers) AND REGULATION

BY THE COMMISSION: Upon review of G.S. 62-152.1 relating to uniform rates, joint rate agreements among carriers enacted by the 1977 General Assembly, the Commission is of the opinion that Rule R4-12 should be adopted to establish a procedure for approval of joint rate agreements among carriers pursuant to G.S. 62-152.1.

IT IS, THEREFORE, ORDERED as follows:

That Rule R4-12 be and the same hereby is adopted as a rule and regulation as follows:

RULE R4-12. UNIFORM RATES, PROCEDURE FOR APPROVAL OF JOINT RATE AGREEMENTS AMONG CARRIERS.

(a) Form and Contents of Application

The application and supporting exhibits shall contain the following information:

(1) Full and correct name and business address (street and number, city and zip code, county and State) of the carrier applicant or applicants (hereinafter called applicant); whether applicant is a corporation, individual, or partnership if a corporation, the government, State or territory under the laws of which the applicant was organized and received its present charter, and if a partnership, the names of the partners and date of formation of the partnership.

(2) Full and correct name and business address (city and State) of each carrier on whose behalf the application is filed and whether it is a corporation, individual, or partnership.

(3) Whether applicant and each carrier on whose behalf the application is filed is a carrier by railroad, motor vehicle, or water, or pipe-line company.

(4) If the agreement of which approval is sought pertains to a conference, bureau, committee, or other organization, a complete description of such organization, including any sub-units, and of its or their functions and methods of operation, together with a description of the territorial scope of such operations; and, if such organization has a working or other arrangement or relationship with any other organization, a complete description of such arrangement or relationship. If the agreement is of any other character, a precise statement

of its nature and scope and the mode of procedure thereunder.

(5) The facts and circumstances relied upon to establish that the agreement will be in furtherance of the transportation policy declared in Chapter 62 of the General Statutes.

(6) The name, title, and post office of counsel, officer, or other person to whom correspondence in regard to the application is to be addressed.

(b) Required Exhibits

There shall be filed with and made a part of each original application, and each copy, the following exhibits:

(1) As exhibit 1, a true copy of the agreement.

(2) As exhibit 2, if the agreement pertains to a conference, bureau, committee, or other organization, a copy of the constitution, by-laws, or other documents or writings, specifying the organization's powers, duties, and procedure, unless incorporated in the agreement filed as Exhibit 1.

(3) As exhibit 3, if the agreement relates to a conference, bureau, committee, or other organization, an organization, an organization chart.

(4) As exhibit 4, if the agreement relates to a conference, bureau, committee, or other organization, a schedule of its charges to members or, where expenses are divided among the members, a statement showing how the expenses are divided.

(5) As exhibit 5, opinion of counsel for applicant that the application made meets the requirements of law as set forth in G.S. 62-152.1, and will be legally authorized if approved by the Commission, with specific reference to any specially pertinent provisions of articles of incorporation or association.

(c) Procedure

The following procedure shall govern the execution, filing, and disposition of the application:

(1) The original application shall be made under oath and shall be signed in ink by applicant, if an individual; by all partners, if a partnership, and if a corporation, by an executive officer having knowledge of the matters therein contained; and shall show, among other things, that the affiant is duly authorized to verify and file the application.

(2) The original application and supporting papers in compliance with Rule R1-5 shall be filed with the Chief Clerk with copies to the Transportation Rates Division of the Public Staff. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed, and the officer's seal may be omitted.

(3) A public notice will be issued by the Commission stating the fact that an application has been filed under these rules and indicate the manner and time for filing protests.

(4) A protest against the grant of an application be filed in accordance with Rule R1-5.

(5) In the event no protest is filed by the date specified in the public notice, the matter will be decided on the verified application and record.

(6) To the extent that matters of procedure are not covered by this rule, the Commission's Rules and Regulations shall apply.

(7) The filing under this Rule shall be an original filing and separate from and in addition to any such filing made with the Interstate Commerce Commission.

(8) Compliance with this Rule does not relieve any carrier from otherwise meeting full compliance with G.S. 62-152.1.

(9) Agreements filed under this Rule shall not become effective until approval under order by the Commission.

(d) New Parties to an Agreement

Where a carrier becomes a party to an agreement which has been approved by the Commission, such approval will extend and be applicable to such carrier upon the filing with the Commission by the carrier or its authorized agent of a verified statement that it has become a party to the agreement, which statement shall show the information required by paragraph (a)(2) of this Rule, provided, (1) That such carrier is not, under the agreement, to act with carriers of a different class, within the meaning of G.S. 62-152.1, except as the agreement relates to transportation under joint rates or over through routes, and (2) that no change is made in the agreement except the addition of such carrier.

(e) Public Notice

When independent action is announced and tariff publication is to be made by a publishing agent operating

pursuant to an agreement under G.S. 62-152.1, notification thereof will be given by the agent to the same extent and in the same manner that the agent gives notice of actions proposed under procedures for collective consideration of the parties to the agreement; and no other joint or collective procedures under the agreement are thereby invoked.

ISSUED BY ORDER OF THE COMMISSION.
This 10th day of October, 1977.

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

DOCKET NO. M-100, SUB 75

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Amendments to Commission Rules and Regulations to Conform to 1977 Legislation and Making Certain Administrative Changes	) ORDER APPROVING) CHANGES TO RULES) AND REGULATIONS

BY THE COMMISSION: Upon review of legislation enacted by the 1977 General Assembly and, in particular, Senate Bill 229 making certain changes in the structure and organization of the Commission, and it further being apparent that certain administrative changes to the Commission Rules and Regulations should be implemented, acting under the power and authority delegated to it for the promulgation of Rules and Regulations under Chapter 62 of the North Carolina General Statutes and in the interest of updating the Commission's Rules and Regulations under new legislation, the Commission is of the opinion, finds and concludes that the Rules and Regulations should be changed as set forth hereinafter.

IT IS, THEREFORE, ORDERED as follows:

That the changes and modifications to the Commission's Rules and Regulations as set forth hereinbelow be, and the same hereby are, adopted and approved.

1. That Commission Rule R1-2(a) be rewritten in its entirety to read as follows:

"Rule R1-2. Office hours and sessions. - (a) Office Hours. - The offices of the Commission in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, will be open for business daily during regular working hours for departments and agencies of State government, which normally extend from 8:00 a.m. to 5:00 p.m., except Saturdays, Sundays and holidays. Mail should be addressed to the Commission or Public Staff - Utilities Commission at P. O. Box 991, Raleigh, North Carolina 27602."

2. That Rule R1-3 be changed to insert a new section (c) with subsequent sections renumbered as follows:

"(c) Public Staff of the Commission. - Persons appearing under statutory authority of G.S. 62-15."

3. That Rule R1-4 be changed by inserting in subsection (1)a. following the words "informal complaints may be made to the Commission" the addition of the words "or Public Staff."

4. That the fcllowing change in Rule R1-4(3)c. be made by adding "2. By the Public Staff, and" with subsequent section renumbered.

5. That Rule R1-5(c) be changed to delete the last sentence and add in lieu thereof "The use of paper 8 1/2" x 11" with a left margin of approximately one and one-half inches is required." and that Rule R1-5(g) be changed by changing "twenty (20) copies" to "twenty-five (25) copies" and under Exception 3 thereof changing "five (5) copies" to "ten (10) copies".

6. That Rule R1-9(a) in the first sentence thereof be changed to insert the words "or by the Public Staff" following the words "Commission on its own motion".

7. That Rule R1-12 be changed in the first sentence thereof to delete "four copies" and add "nine (9) copies".

8. That Rule R1-14(a)(4) be changed by the addition of the words "and the Public Staff" following "filed with the Commission".

9. That Rule R1-15 be changed by the addition in the first sentence thereof of the words "of the Public Staff or" following "upon protest or complaint" and a new (1) added as follows with subsequent sections renumbered:

> "(1) Any public utility filing or applying for an increase in rates for electric, telephone, natural gas or water service shall notify its customers proposed to be affected by such increase of such filing within 30 days of such filing, which notice shall state that the Commission shall set and shall conduct a trial or hearing with respect to such filing or application within six months of said filing date. All other public utilities shall give such notice in such manner as shall be prescribed by the Commission."

10. That Rule R1-15(2) relating to Protests or Complaints be changed by the addition of the words "with a copy to the Public Staff" following "Raleigh, North Carolina," and the addition of the words "with a copy to the Public Staff" following "to the Commission".

11. That Rule R1-15(4) relating to Reply be changed by the addition of the words "with a copy to the Public Staff" following "the Commission a reply".

12. That Rule R1-16(a) in the second sentence thereof be changed from "fifteen (15) copies" to "twenty (20) copies".

13. That Rule R1-17(b)(9) be changed by adding subsection f. to read as follows:

> "f. Every general rate application shall contain a one-page Summary of all proposed increases and changes affecting customers and such Summary shall appear as Appendix 1."

14. That Rule R1-17(b)(11) be changed to add the words "or Public Staff" following "offices of the Commission".

15. That Rule R1-17(b)(14) be changed by rewriting the last sentence thereof to read: "The Commission Staff, the Public Staff, the Attorney General and all other Intervenors or Protestants shall file all testimony, exhibits and other information to be relied upon at the hearing 20 days in advance of the scheduled hearing."

16. That Rule R1-17(c) be changed in the first sentence thereof by adding "and copies to the Public Staff" following "filed with the Commission".

17. That Rule R1-17(f)(1) in the first sentence thereof be changed by adding ", Public Staff," set out in commas following "Commission Staff".

18. That Rule R1-17(f)(2) be changed by adding ", Public Staff," set out in commas following "Commission Staff".

19. That Rule R1-18(h) in the first sentence thereof be changed to add the words "with copies to the Public Staff" following "to the Commission".

20. That Rule 1-19 be changed by the addition of new subsection (e) as follows:

"(e) Notices of Intervention by the Public Staff. - Notices of Intervention by the Public Staff shall be deemed recognized without the issuance of any order. As a general rule, Notices of Intervention by the Public Staff need not be filed in advance of any hearing and appearances may be made and noted at the hearing. If the Public Staff elects to do so, Notice of Intervention may be filed in certain cases. The filing of testimony and exhibits and otherwise complying with all other Rules and Regulations of the Commission are not affected by this provision."

21. That Rule R1-21(b)(2) be changed by deleting after "on the bulletin board" the words "at the courtroom door"

and inserting in lieu thereof "in the Office of the Chief Clerk" and that Rule R1-21(d) in the first sentence thereof be changed to delete the words "Commission" and "Division" and insert in lieu thereof "Full Commission, Commission Panel,".

22. That Rule R1-21(e) be changed as follows:

"(e) Order of Receiving Evidence. - Unless otherwise directed by the presiding Commissioner or Hearing Examiner, evidence will ordinarily be received in the following order:

(1) Upon investigation on motion of the Commission: (i) Commission Staff, (ii) Public Staff, (iii) Respondent, and (iv) rebuttal by Commission Staff or Public Staff.

(2) In investigation and suspension proceedings: (i) Respondent, (ii) Public Staff, (iii) Commission Staff, (iv) Protestants, and (v) rebuttal by Respondent.

(3) Upon applications and petitions: (i) Applicants or Petitioners, (ii) Protestants, (iii) Public Staff, (iv) Commission Staff, and (v) rebuttal by Applicant or Petitioner.

(4) Upon investigations after motion by the Public Staff: (i) Public Staff, (ii) Respondent, (iii) Intervenors, (iv) Commission Staff, and (v) rebuttal by Public Staff.

(5) Upon formal complaints: (i) Complainant, (ii) Defendant, (iii) Public Staff, (iv) Commission Staff, and (v) rebuttal by Complainant.

(6) Upon order to show cause: (i) Commission Staff, (ii) Public Staff, (iii) Respondent, and (iv) rebuttal by Commission Staff or Public Staff."

23. That Rule R1-21(f) be rewritten as follows:

"(f) Testimony by Public Staff or Commission Staff.

(1) Investigations made by the Public Staff or Commission Staff in any pending proceeding...."

24. That Rule R1-24(f)(3) be changed by deleting "twenty-five (25) copies" and adding "thirty (30) copies".

25. That Rule R1-25 be changed to read as follows:

"(a) Any party of record, including the Public Staff, to a proceeding before the Commission, Commission Panel, or before a Hearing Examiner shall have the right to and upon request of the presiding Commissioner or Examiner, shall file proposed findings of fact, conclusions of law, and brief in the cause on all issues. The Presiding Officer shall fix the time within which to file such proposed findings, conclusions and briefs at the hearing or thereafter, and no decision, report, or recommended order shall be made in the cause until after the expiration of the time so fixed. The proposed findings and conclusions of the

parties and particularly those of the Public Staff should include schedules in comparative form showing reconciliation based upon evidence of record of the differences between the parties to the proceeding and the reconciliation by the Public Staff between the parties to the proceeding shall include the following schedules:

(1) Original cost net investment with each component shown separately, e.g., utility plant in service, accumulated depreciation, working capital (show components of working capital separately, e.g., cash, minimum bank balances, materials and supplies, etc.);

(2) Operating income for return with each component shown separately, i.e., operating revenues, operation and maintenance expenses with fuel expense shown separately, depreciation expense, taxes-other than income, current income taxes - state, current income taxes - federal, investment tax credit-net, deferred income taxes - net, and interest on customer deposits;

(3) Total company capitalization including absolute dollar amounts and ratios. Also show the annualized embedded cost of debt, the preferred dividend requirement, the end-of-period return on common equity and the end-of-period overall rate of return under present and company proposed rates;

(4) Calculations of current and deferred state and federal income tax expense; and

(5) Calculation of replacement cost and fair value.

(6) In rate proceedings involving operating ratios, such operating ratios shall be presented in addition to applicable data set forth above."

26. That Rule R1-26 be changed as follows: Delete "hearing division" in both the heading and first sentence and insert in lieu thereof "Commission Panel, Hearing" and insert "Commission Panel" in lieu thereof of "hearing division" in subsection (c) and add "Hearing" before Commissioner in (c).

27. That Rule R1-32 be changed by adding at the end of subsection (a) the following sentence: "The Chief Clerk shall, immediately upon the filing of any annual report, transmit the same to the Public Staff for analysis and approval."

28. That Rule R1-33 be changed by adding at the conclusion thereof the following: "The Chief Clerk shall, immediately upon the filing of any annual report, transmit the same to the Public Staff for analysis and approval."

29. That Rule R1-36(a)(2) be changed to read in the first sentence thereof as follows: "Public hearing on applications pursuant to G.S. 62-134(e) will generally be held in the Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina."

30. That Rule R1-36 in subsection (b)(2) thereof in the first sentence following the words "filed with the Commission and a copy" be changed to read as follows: "provided to the Public Staff and to the applicant." and the second sentence be changed to read as follows: "Public hearing on such application will generally be held in the Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina."

31. That Rule R2-2(e) be changed to insert after the word "cancelled" the words "upon notice to the holder without hearing".

32. That Rule R2-2(e)(6) be changed to insert after the word "passenger" the words "or property".

33. That Rule R2-2(f) be changed to add at the end of the first sentence following the word "number" the words "unless such vehicle is under permanent lease in which case only the certificate number of the lessor will appear."

34. That Rule R2-2 be changed to add subsection (h) to read as follows:

"(h) Any person operating under a certificate of exemption using a leased or rented vehicle shall have the vehicle properly marked or placarded on both sides in letters and figures not less than three (3) inches high, the lessee's name or trade name, address and certificate number."

35. That Rule R2-7 be changed to delete the words "North Carolina" before the words "tag number" and to delete the initials "N.C." as they appear before the word "Tag" in the heading of the first column of the form.

36. That Rule R2-8(a)(1) be changed beginning in the second sentence thereof to delete "five complete copies" and insert "ten (10) complete copies" and following "filed with the Commission" to add the words "with a copy to the Public Staff." and in the last sentence thereof be changed to insert in lieu of "$25.00" the following: "$250.00, Class I; $100.00, Class II; and $25.00, Class III".

37. That Rule R2-8(b)(1) be amended in the first sentence following "with the Commission" with the words "with a copy to the Public Staff," added and "five copies" changed to "ten (10) copies".

38. That Rule R2-9(a) be amended following the words "in writing to the Commission" to add the words in addition thereto "with a copy to the Public Staff".

39. That Rule R2-14 be changed in the second sentence of the first paragraph at the end thereof to add the words "and the Public Staff" following "the Commission".

40. That Rule R2-15(b) be changed by deleting the comma following "with the Commission" and adding the words "with a copy to the Public Staff".

41. That Rule R2-23(c) be changed to delete the words and figures "twenty-five cents (25¢)" and insert "$1.00".

42. That Rule R2-36(a) be changed to amend the SCHEDULE OF LIMITS form in column heading (3) by deleting "$25,000" and inserting "$50,000".

43. That Rule R2-42(a) be changed to delete "and other agents of the Commission" and add the words "of the Public Staff or Commission Staff or their agents".

44. That Rule R2-42 be changed in subsection (b) following "Representatives of the Commission" to add the words "or the Public Staff".

45. That Rule R2-42(c) be changed following "agent of the Commission" to add the words "or the Public Staff" and following "directed by the Commission" to add the words "or upon approval of request to the Commission by the Public Staff".

46. That Rule R2-53(c) be changed by deleting the comma following the words "Commission in a letter" and adding the words "with a copy to the Public Staff,".

47. That Rule R2-57 be changed in the first sentence thereof following the words "filed with it" to add the words "with a copy to the Public Staff".

48. That Rule R2-58 be changed in the first sentence thereof following "with the Commission" to add the words "with a copy to the Public Staff".

49. That Rule R2-59(a) be changed in the first sentence thereof following "with the Commission" to add the words "with a copy to the Public Staff".

50. That Rule R2-66(a) be changed following the words "upon application" to add the words "to the Commission, with a copy of the application also being furnished to the Public Staff,"and insert after " and after a hearing," the words "or after notice and no protests being filed".

51. That Rule R2-74(a) be changed in the third sentence thereof to delete "25¢" and add "$1.00".

52. That Rule R2-83(i) be changed in the fourth sentence thereof to delete "25¢" and add "$1.00".

53. That Rule R2-86(a) and (b) be changed to amend the SCHEDULE OF LIMITS forms in column heading (3) by deleting "$25,000" and adding "$50,000" and in columns (2) and (4) by deleting "$25,000" and "$10,000" and adding "$50,000".

54. That Rule R3-7 be changed by substituting in lieu of "Interstate Commerce Commission" the words "U. S. Department of Transportation, Federal Railroad Administration".

55. That Rule R3-8(a) be changed following "concept in North Carolina" to add the words "shall also file a copy with the Public Staff and".

56. That Rule R4-1 be changed to redesignate the existing section as (a) and the following added as a new (b):

"(b) The term 'agent' or 'issuing agent' as used herein means a party issuing or publishing tariff schedules for and on behalf of common carriers."

57. That Rule R4-2(h) be changed to delete "two (2) copies" and add "six (6) copies" and delete "Traffic Department" and insert in lieu thereof "Transportation Rates Division".

58. That Rule R4-2(h) be changed to delete "duplicate" and insert "triplicate" and add "27602." after "N.C.".

59. That Rule R4-4(c) be changed to delete "Three copies" and add "Six (6) copies" and further amended to delete "Traffic Department" and insert in lieu thereof "Transportation Rates Division" and to add "27602." after "N.C.".

60. That Rule R4-6 be changed in subsections (a) and (b) to delete "Traffic Department" and add in lieu thereof "Transportation Rates Division".

61. That Rule R4-7 be changed in subsection (c) to delete "Two copies" and "one copy" and insert "Six (6) copies" and "six (6) copies"; to delete "Traffic Department" and insert "Transportation Rates Division"; and to add "27602." after "N.C.".

62. That Rule R4-10 be changed to delete "Traffic Department of the Commission" and add "Transportation Rates Division".

63. That Rule R5-1 be changed in the second sentence to delete the first "such" and insert in lieu thereof the word "proper" and to delete "card" and in the last sentence to delete "such current" and insert in lieu thereof the word "appropriate" and to delete "card".

64. That Rule R5-4 be changed to delete (b) in its entirety and to reletter each remaining paragraph.

65. That Rule R6-3 be changed to insert following "by the Commission" the words ", the Public Staff, or their".

66. That Rule R6-5, subsection (8) be changed to add at the end of that provision "or the Public Staff."

67. That Rule R6-27(a) be changed following "of the Commission" to add the words "or the Public Staff".

68. That Rule R6-27(b) be changed by the addition of a new subsection (|) to read as follows:

> "(|) The calorimetric equipment shall be installed in a suitably located testing station acceptable to the Commission and subject to inspection by the Commission Staff or the Public Staff."

69. That Rule R6-40(|) be changed to delete "2.||" and add "2.|2".

70. That Rule R6-40(2) be changed to delete "2.|2" and add "2.|3".

71. That Rule R7-| be changed to read "These rules apply to public water utilities as defined in G.S. 62-3."

72. That Rule R7-2 be changed by deleting the balance of subsection (a) following "public for compensation" and inserting the following words "as defined in G.S. 62-3."

73. That Rule R7-2(e) be changed by deleting "twenty-five (25) customers" and adding "ten (|0) customers".

74. That Rule R7-3(a) be changed following the words "by the Commission" to add ", Public Staff or their" and in (b) after the words "to the Commission" add "with copies to the Public Staff" and after the words "by the Commission" add "or Public Staff."

75. That Rule R7-3(c) be rewritten as follows:

"(c) Accident Reports and Interruption of Service Reports. - Each utility shall file a report with the Commission with a copy to the Public Staff describing any accident or interruption of service in connection with the utility's operation. The report shall be filed within the intervals specified by the Commission from time to time, and shall contain the information required on the reporting forms furnished by the Commission for that purpose."

76. That Rule R7-8(a) be changed following "affecting" to read "ten (|0) or more customers and shall be maintained for three (3) years. A report of such interruptions shall be filed each month in the Office of the Chief Clerk with a copy to the Public Staff by the |5th day of the month following the month for which the report is required to be filed."

77. That Rule R7-33(a) be changed to add following "the Utilities Commission" the words "with a copy to the Public Staff".

78. That Rule R7-34(a) in the second paragraph be changed to read "by the Commission or Public Staff." following "inspected and checked".

79. That Rule R8-1(b) be changed following the words "with the Commission" by deleting "is presupposed" and adding "and the Public Staff is expected."

80. That Rule R8-3(c) be changed following "its representatives" to add the words "or the Public Staff".

81. That Rule R8-4 be changed following "to the Commission" by adding the words "and the Public Staff".

82. That Rule R8-5(b) be changed by addition of the words "or the Public Staff," following "the Commission".

83. That Rule R8-6 be changed by adding following "the Commission" the words "or the Public Staff".

84. That Rule R8-40(b) be changed to delete "Electrical" and insert "Engineering" and after "Division" insert "of the Commission Staff and the Electric Division of the Public Staff" and by inserting the colon after the word "below" and deleting the remainder of the sentence.

85. That Rule R8-40(c) be changed to delete the words "Electrical Division" and insert the words "Engineering Division of the Commission Staff and Electric Division of the Public Staff" and to delete the remainder of the sentence after the word "telegram".

86. That Rule R9-4(b)(5) be changed by deleting "Telephone Rate Section" and adding "Telephone Division Public Staff".

87. That Rule R10-1 be changed following "as defined in" by adding "G.S. 62-3." and deleting the remainder of the sentence and "(NCUC Docket No. S-100, Sub 1, 8/23/67.)".

88. That Rule R10-2(a) be changed by adding as a part of the first sentence after the word "compensation" the words "as defined in G.S. 62-3" and by deleting the second sentence in its entirety.

89. That Rule R10-3(a) be changed by inserting ", Public Staff" after the word "Commission" and after the word "or" deleting the word "its" and inserting the word "their".

ISSUED BY ORDER OF THE COMMISSION.

This 27th day of October, 1977.

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

DOCKET NO. E-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Peak-Load Pricing Time-of-Day Metering, Conservation, and Load Management for Electric Utilities Operating in North Carolina	) ORDER FOR IMPLEMENTA-) TION OF VOLUNTARY) TIME-OF-DAY RATES BY) DUKE POWER COMPANY)

BY THE COMMISSION: Pursuant to the Commission's order herein, issued on 25 February 1976, Duke Power Company (Duke) filed time-of-day electric rates for implementation on a voluntary basis by a limited number of residential, general service and industrial customers. The Commission conducted a public hearing on 16 December 1976 for consideration of allowing Duke's program for implementing such rates. On 31 August 1977 the Commission reopened the 16 December 1976 hearing for oral argument on the record and for presentation of newly discovered evidence or subsequent evidences relevant and material to the issue of approval of the time-of-day rates under consideration. (Voluntary time-of-day rates filed by Virginia Electric and Power Company and Carolina Power and Light Company were also considered at the hearings and will be the subject of a separate order.)

Based upon the entire record now before it in this proceeding, the Commission is of the opinion that the voluntary time-of-day rates filed by Duke on 23 September 1976 will allow participating customers an opportunity to effect savings in their electric bills while providing Duke and the Commission with meaningful information as to whether customers are willing to shift their usage to off-peak periods and whether such shifts would create a new peak. The Commission therefore concludes that these rates should be implemented according to the plan proposed by the company, for an initial one-year contract period.

IT IS, THEREFORE, ORDERED as follows:

1. That Duke Power Company shall make available, to selected customers and on a voluntary basis, the time-of-day rates shown in Appendix A attached hereto, upon the filing of appropriate tariffs which shall be effective on one day's notice.

2. That Duke shall begin immediately to select customers, using random sampling procedures, to whom the voluntary time-of-day rates will be made available.

IT IS, THEREFORE, ORDERED:

That pursuant to G.S. 62-2, the customers selected by Duke Power Company for its voluntary time-of-day rate experiment previously authorized in this Docket may be chosen from among Duke's entire system service area so long as sufficient numbers of North Carolina customers are included to retain the statistical integrity of the results for use in future North Carolina ratemaking decisions.

ISSUED BY ORDER OF THE COMMISSION.
This 4th day of October, 1977.

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

DOCKET NO. E-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Investigation of Peak-Load Pricing	) ORDER REQUIRING
Time-of-Day Metering, Conservation,	) FILING OF AT
and Load Management for Electric	) LEAST ONE SET OF
Utilities Operating in North Carolina	) MARGINAL COST RATES

BY THE COMMISSION: The Commission has examined changes in electric utility cost relationships and growth rates in this Docket and in others in recent years. Recent Commission ordered rate designs have been designed to be more responsive to changing cost levels and relationships. In order for the Commission to fully consider rate design issues in electric rate cases, the Commission desires to be able to examine proposed rates along with rates designed with long run incremental costs as a base for relative charges for service between and within classes.

IT IS, THEREFORE, ORDERED that, until further Order of the Commission, Carolina Power and Light Company, Duke Power Company, Virginia Electric and Power Company, and Nantahala Power and Light Company shall, when filing a general rate case, include a set of proposed marginal cost rates based upon long run incremental costs. In order to prevent overcollection of revenues, the full marginal cost rates shall be evenly scaled down to levels which would generate only the required revenues. Supporting information and calculations for both the full and scaled down marginal cost rates shall be provided in the same detail and manner as those for the Company proposed rates.

ISSUED BY ORDER OF THE COMMISSION.
This 21st day of December, 1977.

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

3. That, at the end of one year's experience under the voluntary time-of-day rates, Duke shall file with the Commission a full report including electricity usage among participating customers before and after implementation of said rates.

ISSUED BY ORDER OF THE COMMISSION.
This 8th day of September, 1977.

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

NOTE: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. E-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Peak-Load Pricing Time-of-Day Metering, Conservation, and Load Management for Electric Utilities Operating in North Carolina	) ORDER ALLOWING TIME-OF-DAY SAMPLE TO BE CHOSEN FROM THE ENTIRE COMPANY SERVICE AREA

BY THE COMMISSION: The Commission has been informed by telephone on 30 September 1977 by Mr. Dick Smith, Chief Engineer of the Staff of the South Carolina Public Service Commission that:

(1) South Carolina is considering requiring Duke Power Company to implement a voluntary time-of-day pricing experiment in South Carolina similar to that authorized in North Carolina by this Commission on 8 September 1977,

(2) Duke Power Company wishes to extend the North Carolina program to sample its entire system service area, that such extension may be able to be performed at less cost than restricting the sample to North Carolina, and that Duke would prefer not to have to go to the expense of duplicating the experiment in South Carolina, and

(3) That South Carolina would prefer one statistically sound system-wide experiment to two jurisdictionally separated experiments.

The Commission is informed by its Staff that such extension can be accomplished without degrading the statistical qualities of the experiment.

Good cause appearing,

DOCKET NO. E-100, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation, Analysis and Estimation of Future Growth in the Use of Electricity and the Need for Future Generating Capacity for North Carolina Under Chapter 780, 1975 Session Laws of North Carolina (G.S. 62-110.1)	)	ORDER ADOPTING PLAN FOR THE FUTURE REQUIREMENTS OF ELECTRICITY IN NORTH CAROLINA

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, Beginning Tuesday, January 11, 1977

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

APPEARANCES:

For the Commission Staff:

Edward B. Hipp, General Counsel, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Wilson B. Partin, Jr., 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, Raleigh, North Carolina 27602

For the Intervenors:

William E. Graham, Jr., Senior Vice President and General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

Richard E. Jones, Associate General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

Charles Robson, Attorney at Law, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

Robert C. Howison, Jr., Joyner & Howison, P. O. Box 109, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

Steve C. Griffith, Jr., General Counsel, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28202
For: Duke Power Company

William Larry Porter, Attorney at Law, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28202
For: Duke Power Company

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28211
For: Duke Power Company

Guy T. Tripp, III, Hunton & Williams, 707 East Main Street, Richmond, Virginia 23219
For: Virginia Electric and Power Company

Edgar M. Roach, Jr., Hunton & Williams, 707 East Main Street, Richmond, Virginia 23219
For: Virginia Electric and Power Company

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

David Springer, Attorney at Law, The Point Farm, Mocksville, North Carolina 27208
For: Himself

David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, P. O. Box 527, Raleigh, North Carolina 27602

Adrian P. Yakobitis, Attorney at Law, E. I. duPont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898
For: E. I. duPont de Nemours and Company

Judith E. Kincaid, Attorney at Law, P. O. Box 2901, Durham, North Carolina 27705
For: The North Carolina Public Interest Research Group

Robert D. Byrd, Byrd, Byrd, Ervin & Blanton, Drawer 1269, Morganton, North Carolina 28655
For: Great Lakes Carbon Corporation

The following four attorneys represented:

The Conservation Council of North Carolina, Inc.; The Joseph Le Conte Chapter of the Sierra Club; The League of Women Voters of North Carolina, Inc.; The Carolina Environmental Study Group

Thomas E. Erwin, Attorney at Law, P. O. Box 928, Raleigh, North Carolina 27602

McNeill Smith, Attorney at Law, Jefferson Building, Greensboro, North Carolina 27401

Dennis P. Myers, Attorney at Law, 305 First Federal Building, Raleigh, North Carolina 27601

Mark E. Sullivan, Attorney at Law, 205 Loft Lane, #48, Raleigh, North Carolina 27609

Robert P. Gruber, Special Deputy Attorney General, and Jesse Brake, Associate Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For The Nuclear Regulatory Commission Witnesses:

Richard C. Browne, Attorney at Law, U.S. Nuclear Regulatory Commission, 7920 Norfolk Avenue, Washington, D. C. 20555

BY THE COMMISSION: The 1975 Session of the General Assembly of North Carolina enacted Senate Bill 420 which provided, among other things, that the Commission shall analyze and estimate the probable future growth in the use of electricity in North Carolina and the need for future generating capacity. This statute, which was codified as G.S. 62-110.1(c), provides:

"(c) The Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity, the probable needed generating reserves, the extent, size, mix and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal Power Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of North Carolina, and shall consider such analysis in acting upon any petition by any utility for construction. In developing such analysis, the Commission shall confer and consult with the public utilities in North Carolina, the utilities commissions or comparable agencies of neighboring states, the Federal Power Commission, the Southern Growth Policies Board, and other agencies having relevant information and may

participate as it deems useful in any joint boards investigating generating plant sites or the probable need for future generating facilities. In addition to such reports as public utilities may be required by statute or rule of the Commission to file with the Commission, any such utility in North Carolina may submit to the Commission its proposals as to the future needs for electricity to serve the people of the State or the area served by such utility, and insofar as practicable, each such utility and the Attorney General may attend or be represented at any formal conference conducted by the Commission in developing a plan for the future requirements of electricity for North Carolina or this region. In the course of making the analysis and developing the plan, the Commission shall conduct one or more public hearings. Each year, the Commission shall submit to the Governor and to the appropriate committees of the General Assembly a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the Commission for the ensuing year in connection with such plan."

In carrying out its responsibilities under Senate Bill 420, the Commission has engaged in a study of 18 months' duration to develop an independent electric power demand forecast and generating capacity model for North Carolina and for the major electric utilities providing public utility service in North Carolina.

On October 27, 1976, the Commission issued its Order Setting Hearing and Inviting Participation in this docket. The Order provided that the results of the Commission's study be presented at a public hearing beginning on January 11, 1977, and that at this hearing, the Commission would receive for consideration expert testimony from the electric utilities, private groups, and those individuals having a knowledge of electric demand forecast and electric generation. The Order further directed Carolina Power & Light Company, Duke Power Company, and Virginia Electric and Power Company to publish notice of the hearing in newspapers throughout the State for four (4) consecutive weeks.

The Commission received notice of intervention from the Attorney General of North Carolina; the intervention of the Attorney General was recognized by the Commission. The Commission also received petitions of intervention from the following parties: Carolina Power & Light Company, Raleigh, North Carolina; Duke Power Company, Charlotte, North Carolina; Virginia Electric and Power Company, Richmond, Virginia; North Carolina Textile Manufacturers Association, Inc., Charlotte, North Carolina; David Springer, Mocksville, North Carolina; North Carolina Oil Jobbers Association, Raleigh, North Carolina; North Carolina Public Interest Research Group, Inc., Durham, North Carolina; League of Women Voters of North Carolina, Inc., Raleigh, North Carolina; Conservation Council of North Carolina, Inc., Raleigh, North Carolina; the Joseph LeConte Chapter of The

Sierra Club, Columbia, South Carolina; Carolina Environmental Study Group, Inc., Charlotte, North Carolina; E. I. duPont de Nemours & Co., Inc., Wilmington, Delaware; and Great Lakes Carbon Corporation, New York, New York. The Commission granted all of the petitions for intervention and made the parties thereto a party of record in this proceeding.

The matter came on for hearing as scheduled on January 11, 1977. The Commission Staff presented the testimony and exhibits of the following witnesses: William F. Irish, Staff Economist, who testified on the methodology and procedures used in the forecast, the commercial KWH sales forecast, the industrial KWH sales noneconometric forecast, and the peak load forecast for CP&L and Duke; Thomas M. Kiltie, Staff Economist, who testified on the Staff's 1986 forecast of residential electricity sales for Carolina Power & Light Company and Duke Power Company; Edwin A. Rosenberg, Staff Economist, who testified on the econometric estimation of the industrial usage of electricity; Alton Skinner, III, Assistant State Planning Officer for Research, North Carolina Department of Administration, who testified in support of the forecast procedures and methodologies used in the long-range forecast of state economic activity; N. Edward Tucker, Staff Engineer in the Electric Section, who testified on the future price of electricity and the historical load factors of certain customer classifications; Dr. Robert M. Spann, Associate Professor of Economics at the Virginia Polytechnic Institute and a principal of the Washington, D. C., consulting firm I.C.F., Inc., who testified on the Staff's load and energy forecast presented at the hearing; Dennis J. Nightingale, Staff Engineer in the Electric Section, who testified on the size and mix of future generating capacity for adequate and reliable electric service in North Carolina; Dr. Martin L. Baughman, Professor of Electrical Engineering at the University of Texas at Austin, and the President of Southwest Energy Associates, Inc., and Dilip P. Kamat, consultant for Southwest Energy Associates, Inc., both of whom testified on the necessary and most efficient electric generation capacity additions to meet forecasted electric loads; Dr. Thomas S. Elleman, Professor and Head of the Nuclear Engineering Department at North Carolina State University, who testified on alternative energy sources and nuclear reactor safety; David H. Martin, Associate Professor of Physics at North Carolina State University, who testified on alternative energy sources and nuclear reactor safety problems.

Duke Power Company presented the testimony of Franz W. Beyer, Vice President - System Planning, who testified on Duke's probable needed electric generating reserves, additional generating capacity, and the estimated size, mix and location of future generating capacity; David Rea, Manager of Forecasting and Budgets, who testified on Duke's system peak load and sales forecast and Donald H. Denton, Jr., Vice President - Marketing, who described Duke's load

management program and its impact on future generating requirements.

Carolina Power & Light Company offered the testimony of Wilson W. Morgan, Manager - System Planning and Coordination Department, who testified on CP&L's energy sales and peak demand forecast through 1988 and the methodology used to develop these forecasts.

Virginia Electric and Power Company offered the testimony of C. M. Stallings, Vice President of Power Supply and Production Operations, who testified on Vepco's methods of forecasting demand and energy requirements, and the planning of new generation for the Vepco system.

The following witnesses testified on behalf of various governmental agencies; Dr. David Ross, Southern Interstate Nuclear Board, who testified on the availability of fuels, including natural gas; Herbert Feinroth, Assistant Director for Technology, Reactor Development Division, Energy Research and Development Administration, who testified on the development of the liquid metal cooled fast breeder reactor; Victor Stello, Jr., Director of the Division of Operating Reactors, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, who testified on the Commission's functions and programs in the regulation of domestic commercial nuclear power reactors.

The League of Women Voters of North Carolina, Inc., the Conservation Council of North Carolina, Inc., The Sierra Club, and The Carolina Environmental Study Group, Inc., presented the testimony and exhibits of Senator McNeill Smith, Guilford County, who urged the Commission that conservation be used as a factor to reduce growth of electricity demand; Professor Jerome Kohl, Nuclear Engineering Extension Specialist for North Carolina State University, who offered comments on the forecast of the Commission Staff; Dr. Miles Oakley Bidwell, Assistant Professor of Economics, Wake Forest University, who testified on an econometric analysis of electricity demand in the Duke Power area; and Jesse L. Riley, a Senior Research Associate in the Research and Development Department of Celanese Fibers Company, who testified on a critique of various forecasting methodologies and described a new methodology and the results and the applicability of that methodology to future generating mix.

The Attorney General of North Carolina offered the testimony of Dr. Irvin C. Rupp, Lecturer on Business Administration in the Graduate School of Business Administration, Harvard University, who testified on his review of the various prefiled testimony and exhibits of this proceeding.

The following public witnesses appeared and offered testimony: Dr. Joseph W. Straley, Professor of Physics at the University of North Carolina at Chapel Hill; Harley

Schlanger; Brad Stewart; and Dr. Gerald Meisner, Professor of Physics, University of North Carolina at Greensboro.

Based upon the testimony and exhibits presented at the hearing in this docket, and the information set forth in the files and records of the Commission, the Commission presents its Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina. The major points contained in this Plan are set forth below.

ANALYSIS AND ESTIMATES

(1) Duke Power Company and Carolina Power & Light Company provide 95% of the electricity generation utilized in North Carolina. Virginia Electric and Power Company and Nantahala Power and Light Company supply substantially all of the remaining 5% of electricity generation. Virginia Electric and Power Company and Nantahala Power and Light Company do not plan additional generating facilities in North Carolina in the foreseeable future. The major thrust of the Commission's plan is directed to the service areas of Carolina Power & Light Company and Duke Power Company.

(2) The public policy of the State of North Carolina is to encourage the growth of additional industry in this State in order to provide jobs for, and to raise the living standards of, the State's population. The Commission's objective, among other things, is to encourage the growth of industry that improves the utilities' load factor. The Commission therefore looks with favor on promotional efforts to attract those industries that can thrive on interruptible rates.

(3) The historical rate of growth in the peak load of Carolina Power & Light Company for the years 1965-1975 was 10.1% annually. The most probable future rate of growth in the peak load of Carolina Power & Light Company for the years 1976-1986 is 6.8% annually; the most probable expectation of the 1986 peak load for Carolina Power & Light Company is 9,950 Mw. The most probable future rate of growth in the peak load of CP&L for the years 1986-1990 is 6.8%; the most probable expectation of the 1990 peak load for CP&L is 12,960 Mw.

(4) The historical rate of growth in the peak load of Duke Power Company for the years 1965-1975 was 8.7%. The most probable future rate of growth in the peak load of Duke Power Company for the years 1976-1986 is 6.9% annually. The most probable expectation of the 1986 peak load for Duke is 16,750 Mw. The most probable future rate of growth in the peak load of Duke for the years 1986-1990 is 6.6% annually; the most probable expectation of the 1990 peak load for Duke is 21,630 Mw.

(5) The most probable needed generating reserves for Duke, CP&L, and Vepco are 15-20% in the summer and no less than 20% in the winter.

(6) The most economical and efficient generating mix for CP&L and Duke for the years 1977-1990 consists of 1/2 base generating capacity, 1/3 intermediate generating capacity, and 1/6 peak generating capacity.

(7) The most economical type of base load capacity, for CP&L and Duke in most cases, is nuclear fueled generation; and the projected benefits to be derived from the development and operation of nuclear power outweigh any associated risks.

(8) New generating facilities should be located on sites near load centers or major transmission facilities which have ample water available for cooling. With respect to most facilities coming into service in North Carolina during the next 10-15 years, site licensing and preparation has already begun and may preclude economical relocation of the facilities.

(9) The Commission, through its Staff, routinely considers regional interchange of power and power pooling arrangements through its participation in the Southeastern Electric Reliability Council and the Virginia-Carolinas Subregion planning efforts.

(10) Conservation can and must play an important part in future energy strategies of North Carolina. The forecast adopted by the Commission embodies conservation efforts that have occurred to date as a result of increased energy prices. Continued and increasing conservation efforts provided by additional special incentives or governmental policy could result in lower electrical power requirements than currently forecasted for the future. The Commission encourages maximum conservation efforts and is currently considering numerous conservation strategies in Docket No. E-100, Sub 21.

(11) The forecast of future electrical power demands, the generation reserve requirements, and the types of capacity, including economic and safety considerations, will be reviewed by the Commission on an annual basis in order to adequately incorporate changing conditions in the future.

CONCLUSION

The Commission adopts its Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina in compliance with the mandate set forth in G.S. 62-110.1.

IT IS, THEREFORE, ORDERED that the attached Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina be, and the same is hereby, adopted as the Plan of the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of February, 1977.

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

DOCKET NO. E-100, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Electric Utility Demonstration Project: Implementation of Experimental Time-of-Day Rates for Carolina Power & Light Company and Blue Ridge Electric Membership Corporation	) ORDER AUTHORIZING IMPLEMENTATION OF EXPERIMENTAL TIME-OF-DAY ELECTRICITY RATES

HEARD IN: Watauga County Courthouse, Boone, North Carolina, on June 1, 1977 at 9:30 a.m. and 2:00 p.m.

BEFORE: Commissioner Barbara A. Simpson, Presiding, and Commissioners W. Lester Teal, Jr., Robert K. Koger, Sarah Lindsay Tate, and Leigh H. Hammond

APPEARANCES:

For the Applicant:

Ted G. West, West, Groome, Tuttle & Thomas, P.O. Drawer 818, Lenoir, North Carolina 28645

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: In 1975 the North Carolina General Assembly enacted Senate Bill 420 entitled "An Act to Establish an Expansion Policy for Electric Utility Plant in North Carolina, To Promote Greater Efficiency in the Use of All Existing Plants, and to Reduce Electricity Costs by Requiring Greater Conservation of Electricity".

The statute provides in relevant part:

"The Commission shall study the feasibility of and, if found to be practicable, just and reasonable, make plans for the public utilities to bill customers by a system of nondiscriminatory peak pricing, with incentive rates for off-peak use of electricity charging more for peak period than for off-peak periods to reflect the higher cost of providing electric service during periods of peak demand on the utility system. No order regarding such rates shall be issued by the Commission without a prior public hearing, whether in a single electric utility company rate

case or in general orders relating to two or more or all electric utilities."

Pursuant to the mandate of the General Assembly, the Commission applied to the Federal Energy Administration, Washington, D. C., for a grant to fund an electric utility peak-load pricing demonstration project. On July 23, 1976, the Federal Energy Administration awarded the Commission $532,592 in order to implement the peak-load pricing project. The two North Carolina electric utilities selected for participation in this project are Carolina Power and Light Company (CP&L) and Blue Ridge Membership Corporation (BREMC). Two research firms, the Research Triangle Institute (RTI) and ICF, Inc., have been hired as consultants to the project.

On March 14, 1977, C. E. Viverette, Executive Vice President of Blue Ridge, filed with the Commission proposed experimental time-of-day rates approved by the Board of Directors of BREMC on February 26, 1977 for the BREMC portion of the electricity demonstration project.

Petition to Intervene in this matter was filed on March 18, 1977 by the North Carolina Oil Jobbers Association. By order issued March 22, 1977 the Commission allowed the Intervention.

By order issued March 25, 1977, the Commission set the BREMC experimental rates for investigation and hearing to be held on June 1, 1977, for the purpose of reviewing the proposed rates and rendering an appropriate decision on the rates prior to their scheduled implementation in the fall of 1977.

At the hearing, the Commission Staff presented the testimony and exhibits of the following witnesses: Tayler H. Bingham, an economist at the Research Triangle Institute and project leader for RTI on the BREMC electric utility demonstration project; Allen K. Miedema, Manager, Economics Department, Energy and Environmental Research Division, Research Triangle Institute; S. B. White, Senior Statistician, Statistics Research Group, Research Triangle Institute; Robert M. Spann, Associate Professor of Economics, Virginia Polytechnic Institute, and a principal of the Washington, D. C. consulting firm ICF, Inc.; and Dennis W. Goins, Commission Staff Economist, Operations Analysis Section, Engineering Division. BREMC presented the testimony of Cecil E. Viverette, Executive Vice President and Grant R. Ayers, Jr., staff engineer. Four public witnesses, customer-members of BREMC, testified at the hearing in support of the proposed experiment: Luanne Hampton, Edward Long, Donald Ingle, and Linda Lonon.

Upon consideration of the evidence adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That the North Carolina Electric Utility Demonstration Project is a cooperative undertaking by and between the State of North Carolina and the Federal Energy Administration subject to the terms and conditions of FEA Contract No. CA-04-60643-00.

2. That Blue Ridge Electric Membership Corporation is a public utility subject to the jurisdiction of this Commission for purposes of compelling efficient service and prohibiting unreasonable discrimination under G.S. 62-42 and 140.

3. That the purpose of the above-named project is as follows:

a. To analyze the impacts of time-differentiated electricity pricing on the temporal pattern of KW and KWH demand for electricity among residential customers; and

b. To develop preliminary evaluations of the effects of time-differentiated electric rates on the costs and benefits of electricity production and use in North Carolina and on potential changes in future expenditures on electricity generation and distribution facilities.

4. That participants in the project will be 200 households selected from a random sample, stratified on the basis of geographic location and previous level of energy consumption, of all households in BREMC's service area with active residential accounts.

5. That implementation of the experiment will begin with the installation of magnetic tape recording meters by the middle of July 1977 and the assignment of experimental rates effective in October 1977.

6. That the experimental rate schedule proposed for use in the BREMC demonstration project was developed by the Commission Staff and its consultant, ICF, Inc., and is based on long run incremental costs (LRIC).

7. That any fuel cost adjustment or change in the base rate for power purchased from BREMC's supplier will be reflected in an increase or decrease on a percentage of revenue basis on all power sold under the experimental rate schedule.

8. That the bill of the residential customer with average KWH usage and consumption patterns will be approximately the same under the experimental rate schedule as it is under the existing BREMC rate.

9. That the time-differentiated rates proposed for use in this experiment offer to participants the opportunity to achieve an immediate reduction in the amount of their electric bills.

10. That the proposed rates have been approved by the Board of Directors of BREMC for use in this experiment.

Whereupon, the Commission reaches the following

CONCLUSIONS

The Electric Utility Demonstration Project, which is the subject of this proceeding, is one of a series of actions taken by the State of North Carolina through the Utilities Commission to study and analyze the feasibility and practicality of non-discriminatory peak-load pricing of electricity. While the Commission's investigaton into peak-load pricing in Docket No. E-100, Sub 21, indicates that time-differentiated rates may be a means of more closely relating electricity prices to costs, of encouraging temporal shifts in electricity usage, and of deferring necessary increases in generating facilities, the actual effects of time-differentiated rates on electricity consumption are still largely unknown. The Commission, therefore, is of the opinion that this demonstration project is essential to any further investigation into alternative rate forms for statewide implementation in North Carolina.

Having reviewed the Project Master Plan and Quarterly Report filed with the Federal Energy Administration in connection with this project, the Commission concludes that the experimental design is theoretically sound and is consistent with powers and duties of the Commission. The implementation of the experimental rates fulfills two valid legislative purposes: (a) the experimental rates will enable the Commission to fix just and reasonable rates, as it is required to do under Chapter 62 of the General Statutes; and (b) the experimental rates will enable the Commission to carry out the mandate of Senate Bill 420 to study peak-load pricing.

In order to accomplish the goal of obtaining valid projections of the potential effects of time-differentiated rates, the 200 households participating in the experiment must be representative of those throughout BREMC's service area. Thus, the necessity for mandatory participation in this experiment is clear; otherwise, the information obtained would be so biased as to be inapplicable on a larger scale. The customers who will be assigned one of the experimental rates will be chosen on the basis of stratified random sampling procedures developed and conducted by professional statisticians. Moreover, the experimental rates have been designed so that the average customer's electric bill will not change under the experimental rate. Each customer will, however, have the opportunity to reduce his bill by controlling his own usage of electricity. The

Commission therefore concludes that the rates approved for use in the experiment are just, reasonable and nondiscriminatory and are consistent with the provision of adequate and sufficient service.

IT IS, THEREFORE, ORDERED as follows:

1. That Blue Ridge Electric Membership Corporation, the Commission Staff, and their consultants, are hereby authorized to implement time-differentiated electric rates as part of the North Carolina Electric Utility Demonstration Project proposed herein.

2. That the schedule of rates approved for use in this project shall be as set forth in Appendix I attached hereto and deemed filed with the Commission pursuant to G.S. 62-138.

3. That said rate schedule shall be adjusted to reflect changes in BREMC's base rate for purchased power, including the fuel adjustment charge, during the experiment.

4. That said rate schedule shall remain in effect on a mandatory basis (as to the participating households) for a 12-month period beginning with bills rendered in October 1977.

ISSUED BY ORDER OF THE COMMISSION.
This 6th day of June, 1977.

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

NOTE: For Appendix I, see official Order in the Office of the Chief Clerk.

DOCKET NO. E-100, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Electric Utility Demonstration Project: Implementation of Experimental Time-of-Day Rates for Carolina Power & Light Company and Blue Ridge Electric Membership Corporation	) ORDER AUTHORIZING IMPLEMENTATION OF EXPERIMENTAL TIME-OF-DAY ELECTRICITY RATES

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina on May 3 and 4, 1977 at 9:30 a.m. and 2:00 p.m.

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

APPEARANCES:

For the Applicant:

Richard E. Jones, Carolina Power and Light Company, P. O. Box 1551, Raleigh, North Carolina

For the Intervenors:

David H. Permar, Hatch, Little, Bunn, P. O. Box 527, Raleigh, North Carolina

For the Using and Consuming Public:

Robert P. Gruber, N. C. Attorney General's Office, P. O. 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, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: In 1975 the North Carolina General Assembly enacted Senate Bill 420 entitled "An Act to Establish an Expansion Policy for Electric Utility Plant in North Carolina, To Promote Greater Efficiency in the Use of All Existing Plants, and to Reduce Electricity Costs by Requiring Greater Conservation of Electricity".

The statute provides in relevant part:

"The Commission shall study the feasibility of and, if found to be practicable, just and reasonable, make plans for the public utilities to bill customers by a system of nondiscriminatory peak pricing, with incentive rates for off-peak use of electricity charging more for peak period than for off-peak periods to reflect the higher cost of providing electric service during periods of peak demand on the utility system. No order regarding such rates shall be issued by the Commission without a prior public hearing, whether in a single electric utility company rate case or in general orders relating to two or more or all electric utilities."

Pursuant to the mandate of the General Assembly, the Commission applied to the Federal Energy Administration, Washington, D.C., for a grant to fund an electric utility peak-load pricing demonstration project. On July 23, 1976, the Federal Energy Administration awarded the Commission $532,592 in order to implement the peak-load pricing project. The two North Carolina electric utilities selected for participation in this project are Carolina Power and Light Company (CP&L) and Blue Ridge Electric Membership Corporation (BREMC). Two research firms, the Research

2. That Carolina Power and Light Company is a public utility under the jurisdiction of this Commission and is a participant in the above-named project.

3. That the purpose of the project is as follows:

a. To analyze the impacts of time-differentiated electricity pricing on the temporal pattern of KW and KWH demand for electricity among residential customers; and

b. To develop preliminary evaluations of the effects of time-differentiated electric rates on the costs and benefits of electricity production and use in North Carolina and on potential changes in future expenditures on electricity generation and distribution facilities.

4. That participants in the project will be 600 households selected from random sample, stratified on the basis of geographic location and previous level of energy consumption, of all households in CP&L's service area with active residential accounts.

5. That implementation of the experiment will be in two waves:

a. The 300 customers whose recording meters will be installed by the end of July 1977 will be assigned to experimental rates effective for usage beginning in the fall and continuing through March 1979.

b. The 150 or 300 customers (depending upon availability of meters) whose recording meters will be installed between October and December 1977 will be assigned to experimental rates effective in late winter 1978 and continuing through March 1979.

6. That the experimental rate schedule proposed for use in the CP&L demonstration project consists of fourteen rates: two of the rates (T5 and T10) were developed by the Commission Staff and its consultant, ICF, Inc., and are based on long run incremental costs; one of the rates (T11) was developed by CP&L and is based on average embedded costs; two of the rates (T12 and T13) are identical to rates T10 and T11 except that each participating household will be provided a demand limiting load management device for use during the experiment; rate T14, the control rate, is the unified residential rate schedule proposed by CP&L in its pending rate case; the remaining eight rates were developed from variations of rate T5. Customers who have been assigned rates T5 and T11 will be allowed to remain on those rates after the experiment is completed; customers who have

Triangle Institute (RTI) and ICF, Inc., have been hired as consultants to the project.

On March 4, 1977, both Carolina Power & Light Company and the Commission Staff, in association with the consulting firms, filed with the Commission their proposed experimental time-of-day rates for the CP&L portion of the electricity demonstration project.

By order issued March 8, 1977, the Commission set the CP&L experimental rates for investigation and hearing to be held on March 29, 1977, for the purpose of reviewing the proposed rates and rendering an appropriate decision on the rates prior to their scheduled implementation in the fall of 1977.

Petitions to Intervene in this matter were filed on March 18, 1977 by the North Carolina Oil Jobbers Association and by David H. Permar. These Petitioners also filed a Motion to Dismiss or in the Alternative for Continuance. By order issued March 22, 1977 the Commission allowed the Interventions of David H. Permar and the North Carolina Oil Jobbers Association and continued the hearing on the CP&L experimental rates to May 3, 1977.

At the hearing, the Commission Staff presented the testimony and exhibits of the following witnesses: Allen K. Miedema, Manager, Economics Department, Energy and Environmental Research Division, Research Triangle Institute; S. B. White, Senior Statistician, Statistics Research Group, Research Triangle Institute; Robert M. Spann, Associate Professor of Economics, Virginia Polytechnic Institute, and a principal of the Washington, D.C. consulting firm ICF, Inc.; Dennis W. Goins, Commission Staff Economist, Operations Analysis Section, Engineering Division, and N. Edward Tucker, Commission Staff Engineer, Electric Section, Engineering Division. CP&L presented the testimony and exhibits of James M. Davis, Manager of Rates and Service Practices for Carolina Power and Light Company. Two public witnesses testified at the hearing: William Phelps, representing the Farm Bureau Federation, and Joseph Reanckens.

Intervenors David H. Permar, the N. C. Oil Jobbers Association and the Attorney General offered no witnesses.

Upon consideration of the evidence adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That the North Carolina Electric Utility Demonstration Project is a cooperative undertaking by and between the State of North Carolina and the Federal Energy Administration subject to the terms and conditions of FEA Contract No. CA-04-60643-00.

been assigned rates T1-T4 and T6-T9 will be allowed to shift to rate T-5 after the experiment is completed.

7. That each of the proposed rates will be adjusted to reflect any increases or decreases in CP&L's basic rates during the experiment and that separate fuel adjustment factors will be used for each rating period so that the cost-based pricing differentials will be preserved.

8. That each of the proposed rates contains a revenue adjustment such that the average customer's bill will be the same under the experimental rate as it is under the existing CP&L rate.

9. That the time-differentiated rates proposed for use in this experiment offer to participants the opportunity to achieve an immediate reduction in the amount of their electric bills.

Whereupon, the Commission reaches the following

CONCLUSIONS

The Electric Utility Demonstration Project, which is the subject of this proceeding, is one of a series of actions taken by the State of North Carolina through the Utilities Commission to study and analyze the feasibility and practicality of nondiscriminatory peak-load pricing of electricity. While the Commission's investigation into peak-load pricing in Docket No. E-100, Sub 21, indicates that time-differentiated rates may be a means of more closely relating electricity prices to costs, of encouraging temporal shifts in electricity usage, and of deferring necessary increases in generating facilities, the actual effects of time-differentiated rates on electricity consumption are still largely unknown. The Commission, therefore, is of the opinion that this demonstration project is essential to any further investigation into alternative rate forms for statewide implementation in North Carolina.

Having reviewed the Project Master Plan and Quarterly Report filed with the Federal Energy Administration in connection with this project, the Commission concludes that the experimental design is theoretically sound and is consistent with powers and duties of the Commission. The implementation of the experimental rates fulfills two valid legislative purposes: (a) the experimental rates will enable the Commission to fix just and reasonable rates, as it is required to do under Chapter 62 of the General Statutes; and (b) the experimental rates will enable the Commission to carry out the mandate of Senate Bill 420 to study peak-load pricing.

In order to accomplish the goal of obtaining valid projections of the potential effects of time-differentiated rates, the 600 households participating in the experiment must be representative of those throughout CP&L's service

area. Thus, the necessity for mandatory participation in this experiment is clear; otherwise, the information obtained would be so biased as to be inapplicable on a larger scale. The customers who will be assigned one of the experimental rates will be chosen on the basis of stratified random sampling procedures developed and conducted by professional statisticians. Moreover, the experimental rates have been designed so that the average customer's electric bill will not change under the experimental rate. Each customer will, however, have the opportunity to reduce his bill by controlling his own usage of electricity. The Commission therefore concludes that the rates approved for use in the experiment are just, reasonable and nondiscriminatory.

IT IS, THEREFORE, ORDERED as follows:

1. That Carolina Power and Light Company, the Commission Staff, and their consultants, are hereby authorized to implement time-differentiated electric rates as part of the North Carolina Electric Utility Demonstration Project effective as follows:

a. First wave (300 customers)

service rendered on and after October 27, 1977 (bills rendered on and after December 1, 1977)

b. Second wave (150 or 300 customers)

service rendered on and after February 24, 1978 (bills rendered on and after April 1, 1978)

2. That the schedule of rates approved for use in this project shall be as set forth in Appendix I attached hereto and further that CP&L shall file tariffs in accordance with Appendix I within 10 days of the date of this order.

3. That said rate schedule shall be adjusted to reflect changes in CP&L's level of rates, including the fuel adjustment charge, during the experiment.

4. That said rate schedule shall remain in effect on a mandatory basis (as to the participating households) through bills rendered in May of 1979 and shall remain in effect thereafter on an optional basis in accordance with the terms and conditions provided therein.

ISSUED BY ORDER OF THE COMMISSION.
This 6th day of June, 1977.

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

NOTE: For Appendix "I" see the official Order in the Office of the Chief Clerk.

DOCKET NO. E-100, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Procedure to be Followed in the Determination of Rate for Computing the Allowance For Funds Used During Construction (AFUDC)	))))	ORDER ADOPTING RULE FOR CALCULATION OF AFUDC

The Commission has before it for consideration an amendment to the Federal Power Commission's uniform system of Accounts for Licenses. This amendment as approved by the Federal Power Commission (FPC) in Docket RM75 - 27 by Order issued on February 2, 1977 sets forth the method which the FPC has approved for determining the rate to be used in calculating the allowance for funds used during construction.

The North Carolina Utilities Commission (NCUC) Staff has presented testimony in the last two Duke and CP&L rate cases concerning the need for establishment of a uniform method of determining the rate used to capitalize AFUDC. In determining the AFUDC rate the Staff recommended that the following factors be considered:

(1) The same capital components used in the fixing of rates should be used in calculating the AFUDC rate.

(2) Short term debt is not considered in the fixing of rates and should be assigned 100% to construction work in progress.

(3) The cost rates should be calculated the same way they are calculated in the fixing of rates.

(4) The interest component should be net of income taxes since income taxes for rate-making purposes are increased by the tax effects of interest capitalized per books but deducted currently for tax purposes.

(5) Allowance for funds used during construction is a proper cost of construction and should be compounded.

(6) The FPC had a rule making before it which if adopted would prescribe a formula method for calculating the AFUDC rate.

The Commission stated at Page 35 of its Order in E-7, Sub 161 and 173:

(1) "The purpose of permitting capitalization of an allowance for funds used during construction is to provide the company with an opportunity to include as a cost of plant the cost of funds used to build plant today for future customers."

(2) "Therefore, it seems that the basic objective of AFUDC is to enable a company to construct new facilities without causing significant or adverse effects on its earnings from utility operations."

(3) The calculation of the AFUDC rate should conform to rate-making practices so that the company will be permitted to earn on its total utility operations including its construction program at the approximate level permitted in the rate case.

(4) "The Commission further concludes that when the AFUDC rate used conforms to the rate-making process by including the appropriately weighted embedded cost of long term debt and preferred stock, the appropriate amount of short term debt, cost-free funds at zero cost, and a fair return on common equity that it will be proper to compound the amount of capitalized funds on an annual basis.

(5) "That the Commission will review the AFUDC rate which results from any formula prescribed by the FPC prior to use of that formula by the company to calculate the AFUDC rate."

With the above criteria in mind the Commission has carefully reviewed the formula contained in Order 561 issued on February 2, 1977 in Docket No. RM 75-27. We conclude that the method approved by the FPC is a substantial step toward development of a uniform method of calculating the AFUDC rate. Further we consider the assignment of the interest capitalized to the interest section of the Income Statement to be a significant improvement in the reporting process. This change in reporting will result in the interest component of AFUDC being shown as a separate line item in the income statement.

The Commission further concludes that application of the formula as approved if strictly interpreted would not be proper for the electric companies in North Carolina. Our scrutiny of the formula indicates several problems. In order to avoid future misunderstandings the Commission will comment on each of these problems.

(1) No specific provision is made for calculating the interest component net of income taxes. It is clear from Page 6 of its narrative discussion the FPC would permit use of a rate for the interest component which is net of Federal and State income taxes. However, in neither the ordering paragraphs or in the prescribed formula does the FPC set forth how the interest component of the rate net of Federal and State income taxes is to be calculated.

The Commission has previously excluded from the fixing of rates all cost associated with construction work in progress including the reduction in current income taxes due to interest deducted currently for Federal and State tax purposes but capitalized on the company's books. The Commission concludes that either a rate net of income taxes

or a rate before income taxes (gross rate) may be used for the interest component of AFUDC. If a gross rate is used, Account 283, Deferred Income Taxes - Other; Account 410, Provision for Deferred Income Taxes; and Account 411, Income Taxes Deferred in Prior Years - Credit shall be used to record the income tax effects of interest capitalized. Companies using a gross rate shall maintain subaccounts in their general ledger that show the amount included in each of these accounts for the income tax effect of interest capitalized. The only difference is using a net or a gross rate is that use of a net rate results in the deferred credit being recorded as a reduction in CWIP and use of a gross rate results in the credit being recorded as a credit to Account 283, Deferred Income Taxes - Other.

(2) The FPC approved AFUDC rate makes no provision for the treatment of deferred income taxes which are included by this Commission in the companies' capital structure as cost-free capital in the fixing of rates. In fact, at Page 5 of its order the FPC uses the following language to exclude deferred taxes from its prescribed formula:

> "Some respondents commented that the value of non-investor sources of funds such as accumulated deferred income taxes and contributions in aid of construction should be recognized in the formula. We are not adopting this suggestion since normally the entire balances in the accumulated deferred income taxes accounts are used to reduce rate base for cost of service purposes. 2/ To include such balances in determining the AFUDC rate would result in double counting of the same dollars. The same reasons apply for contributions in aid of construction, since under our Uniform System of Accounts such contributions are credited directly to construction costs.
>
> 2/ There is one category of accumulated deferred taxes which is not used to reduce rate base. Under our ratemaking practices the balances of Account 281, Accumulated Deferred Income Taxes - Accelerated Amortization, are included in the capitalization used for rate of return purposes at zero cost. The balances in these accounts, however, are relatively small and the effect on the AFUDC rate if taken into consideration would be negligible."

The FPC states that normally defereed taxes are deducted from the rate base. While the FPC may deduct deferred taxes, North Carolina includes these items in the capital structure as cost-free funds in the fixing of rates.

This point is critical to a fair and equitable treatment of the company and its customers. In the fixing of rates, inclusion of deferred taxes in the capital structure at zero cost has the effect of assigning a portion of the cost-free funds to construction work in progress. It should be obvious from this discussion that the exclusion of deferred taxes from the AFUDC formula by companies in North Carolina

would result in double accounting, the very thing the FPC states it wants to avoid. It seems to us that the FPC Formula should be amended to make provision for inclusion of deferred taxes in the formula by companies that operate in North Carolina and include deferred taxes in the capital structure at zero cost. It is obvious in any rate case or from a cursory review of the financial statements that the wholesale business is a minor portion of a North Carolina company's total electric operations. It seems unreasonable to us to prescribe a formula for companies in North Carolina that meets the needs of a minor portion of their business but is unworkable for a major portion of their business. The Commission previously stated that the capital components included in the AFUDC rate should conform to the capital components used in the fixing of rates. We, therefore, conclude that the AFUDC rate calculated for use in North Carolina should include the cost-free components of capital used in the fixing of rates.

(3) Paragraph 3(17)(b) of the amendment to the Uniform System of Accounts requires the rate be calculated annually. It requires use of actual book balances at the end of the preceding year for long-term debt, preferred stock, and common equity. This paragraph further requires that the balances for short-term debt, average construction work in progress, and nuclear fuel in process of refinement, conversion, enrichment, and fabrication be estimated for the current year with appropriate adjustments as actual data becomes known.

The Commission believes that the AFUDC rate should be calculated semiannually using the current embedded cost of debt and preferred stock and the average capital structure for the previous six months. This would result in an AFUDC rate that includes changes in the capital structure and cost rates for long-term debt, short-term debt, and preferred stock due to significant issues of capital during the previous six months. Further, the calculation of the AFUDC rate semiannually should increase the accuracy of or eliminate the need to estimate balances for short-term debt, construction work in progress and nuclear fuel in process of refinement, conversion, enrichment, and fabrication. Either semiannual estimates of the balance in construction work in progress, nuclear fuel in process, and short-term debt for the six-month period or the exact balance for each of these components at the beginning of each six-month period may be used to calculate the AFUDC rate. If actual data is used, the need for adjustments to the amount capitalized will of course be eliminated. If estimated data is used, the rate can be adjusted semiannually. It is important that AFUDC capitalized be as accurate as possible because of the difficulty in identifying the work orders that were charged initially with AFUDC if the estimate turns out to be incorrect and because a calculation free from or requiring minor adjustments will alleviate concerns of investors as to the validity of AFUDC. The Commission concludes; that the rate should be calculated at least semiannually using the

average book balances for long-term debt, preferred stock, common equity, and cost-free capital for the previous six-month period; that either the estimated balance for the six-month period or the actual balance at the beginning of each six-month period may be used for construction work in progress, nuclear fuel in process of refinement, conversion, enrichment, and fabrication, and short-term debt included in the calculation of the AFUDC rate; that if estimates are used, appropriate adjustments shall be made as actual data becomes known. The Commission further concludes that companies should not be required to compound interest. However, companies may compound interest no more frequently than semiannually.

The Commission recognizes that the Virginia State Corporation Commission has primary jurisdiction and does not believe it should prescribe a formula for VEPCO contrary to the formula prescribed by that regulatory agency. However, the Commission will in each rate case review the AFUDC capitalized by VEPCO to insure that this Commission's ratemaking practices conform to the method employed by Virginia Electric and Power Company to calculate the AFUDC rate.

It is therefore ordered:

(1) That effective July 1, 1977, Duke Power Company, Carolina Power & Light Company, and Nantahala Power and Light Company shall use the following formula to calculate the maximum rate allowable for capitalization of AFUDC:

$$At = \left[s\left(\frac{S}{W}\right) + d\left(\frac{D}{D+P+C+CF}\right)\left(1 - \frac{S}{W}\right) \right] (1 - T)$$

$$Ae = \left[\left(1 - \frac{S}{W}\right) \left[P\left(\frac{P}{D+P+C+CF}\right) + c\left(\frac{C}{D+P+C+CF}\right) + cf\left(\frac{CF}{D+P+C+CF}\right) \right] \right]$$

At = Allowance for borrowed funds used during construction rate net of income taxes

Ae = Allowance for other funds used during construction rate including cost-free funds

S = Short-term debt

s = Short-term debt interest rate

D = Long-term debt

d = Long-term debt interest rate

P = Preferred stock

p = Preferred stock cost rate

C = Common equity

c = Common equity cost rate approved by the Commission having primary jurisdiction

CF = Cost-free capital

cf = Assign zero cost rate

T = Composite statutory State and Federal income tax rate

W = Construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication

(2) That Virginia Electric and Power Company should be required to use the formula prescribed by the Virginia State Corporation Commission and that this Commission's ratemaking practices should be conformed to the method employed by Virginia Electric and Power Company to calculate the AFUDC rate.

(3) That if a company elects to use a gross rate and defer income taxes, the gross rate for borrowed funds shall be calculated as follows:

$$At = \left[s\left(\frac{S}{W}\right) + d\left(\frac{D}{D+P+C}\right)\left(1 - \frac{S}{W}\right) \right]$$

(4) That if a gross rate is used, the deferred income taxes shall be recorded in Accounts 283, 410, and 411 and that separate subaccounts shall be maintained to show the cumulative and current deferred taxes associated with borrowed funds.

(5) That the AFUDC rate shall be calculated semiannually. That compounding of interest is not required but is permitted no more frequently than semiannually.

(6) That in calculating the AFUDC rate the company may use the actual balances at the beginning of each period for construction work in progress, nuclear fuel in process of refinement, conversion, enrichment, and fabrication, and short-term debt, or it may estimate these balances for each six-month period. If estimated balances are used, the company shall recalculate the rate at the end of each period and adjust the AFUDC capitalized if the actual rate exceeds the estimated rate by more than 1/4 of 1 percent.

(7) Except for the formula as amended in ordering paragraphs 1, 2, 3, and 4 above, the Commission adopts the amendments to the FPC system of accounts and the amended FPC reporting requirements to be effective for the reporting year ended December 31, 1977.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of June, 1977.

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

DOCKET NO. E-100, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding to Revised	) ORDER
Commission Rule R8-44 and to Repeal	) PROMULGATING
Commission Rule R8-15	) RULE

BY THE COMMISSION: By Order issued on July 19, 1977, this Commission instituted the above subject rulemaking proceeding. This Order directed that notice of the proceeding be given to the public and requested comments and suggestions from any interested parties. Comments and suggestions were received from approximately a dozen members of the using and consuming public, Carolina Power and Light Company and Duke Power Company. The Commission has considered the above public and company response and has concluded that the rule attached hereto as Appendix "A" should be promulgated.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Commission Rule R8-15 be, and hereby is, repealed from Chapter 8 of this Commission's Rules and Regulations.

2. That Commission Rules R8-12(d), R8-14(d) and R8-44, as revised and attached hereto as Appendix "A" be, and hereby are, promulgated as Rules and Regulations of this Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 29th day of November, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

NOTE: For Appendix "A," see official Order in the Office of the Chief Clerk.

DOCKET NO. E-100, SUB 31

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Procedure for Filings under	) ORDER ADOPTING COMMISSION
G. S. 62-134(d)	) RULE R1-17(i)

BY THE COMMISSION: Under the provisions of G.S. 62-134(d) "any public utility engaged solely in distributing electricity to retail customers" ... "may in its discretion, and without the necessity of public hearings" ... ", elect to adopt the same retail rates to customers charged" by its wholesale supplier, unless the Commission finds upon a hearing that the rate of return earned by such utility upon the basis of such rates is unjust and unreasonable. In such a proceeding, the burden of proof is upon the electrical distribution company.

The Commission is of the opinion that it should be given prompt notice of such election to adopt the retail rates of wholesale suppliers and should be provided with certain minimum information at the time of such notice.

IT IS, THEREFORE, ORDERED:

1. That Commission Rule R1-17. Filing of increased rates; application for authority to adjust rates. -- shall be amended to add a new subsection (i) as shown on Appendix A attached hereto, and

2. That the effective date of Rule R1-17(i) shall be October 15, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This 4th day of October, 1977.

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

NOTE: For Appendix A, see official Order in the Office of the Office of the Chief Clerk.

DOCKET NO. G-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding Concerning Load Growth Policies of North Carolina Gas Distribution Utility Companies	) ORDER GRANTING PETITION) OF PIEDMONT TO ADD NEW,) INDUSTRIAL CUSTOMER

BY THE COMMISSION: By interim Orders issued in this docket on August 10, 1977, and September 8, 1977, the Commission authorized petitions for approval by the Commission to add new gas customers who require limited amounts of natural gas for process purposes, on a case by case basis, including existing customers who are expanding their operations.

Pursuant to the Commission's Orders of August 10, 1977, and September 8, 1977, Piedmont Natural Gas Company, Inc., (PIEDMONT) filed with the Commission on October 5, 1977, a

Petition to allow Piedmont to provide natural gas service to Timken Company at a new plant to be located in Burke County, North Carolina, or Lincoln County, North Carolina.

On Monday, October 10, 1977, at 2:00 P.M., a hearing was held on Piedmont's Petition to add a new industrial customer before Chairman Robert K. Koger and Commissioners Lindsay Tate, Leigh Hammond and Tenney I. Deane. Jerry B. Fruitt, Chief Counsel, appeared for the Public Staff. Robert Brinkley of the Industrial Development Division of the North Carolina Department of Commerce appeared to present the need for the industry in the economic development of the State.

Based upon the verified Petition of Piedmont and the record of the hearing, the Commission makes the following

FINDINGS OF FACT

1. That Piedmont is incorporated under the laws of the State of New York and is duly authorized by its Articles of Incorporation to engage in the business of transporting, distributing and selling gas outside the State of New York; that it is duly domesticated and is engaged in conducting the business above mentioned in the State of North Carolina and that it is a public utility under the laws of this State and its public utility operations are subject to the jurisdiction of this Commission.

2. That the Commission has previously granted Piedmont a Certificate of Public Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the State of North Carolina.

3. That on August 10, 1977, and September 8, 1977, the Commission, in further consideration of this docket, issued Orders stating that, pending final decision in Docket Nos. G-100, Sub 21, and G-9, Sub 163, the Commission will consider, on a case by case basis, requests by gas utility companies to add new industrial customers or provide additional service to existing customers requiring natural gas in limited amounts for process purposes.

4. That an industrial customer proposing to construct a plant capable of receiving service as outlined by the Commission has requested Piedmont to provide natural gas service, and that customer is Timken Company.

5. That Timken plans to construct an industrial plant to manufacture metal parts to be located in Burke County or Lincoln County, North Carolina; that Timken seeks process gas up to 300 Mcf per day to be used for thermal treatment of metal; that Timken will employ between 250 and 1000 employees with a pay scale somewhat higher than the prevailing wages in the area; that said industry will provide diversification in the Burke County or Lincoln County area where the largest industries are textile and furniture manufacturing.

6. Further, Timken proposes to limit the use of natural gas to a high priority use under Piedmont's proposed Priority 2.3, or FPC Priority 2.

7. That natural gas is essential for the purpose of producing the completed metal products and that propane is the only alternate fuel.

The Commission takes judicial notice of the previous testimony entered in Docket Nos. G-100, Sub 21, G-100, Sub 24, G-100, Sub 33, and G-9, Sub 163, by Thomas B. Broughton, Director, Economic Development Division, North Carolina Department of Commerce, pertaining to the necessity of natural gas in metal production and the advantage to North Carolina in being able to bring in new, higher paying industry to the State.

Based on the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

We conclude that Timken Company is in an area of the State where industry is needed and that Timken's use for natural gas is for process gas. After considering all the factors, we conclude that the Petition of Piedmont to provide natural gas service to Timken as provided by the Commission in its Orders of August 10, 1977, and September 8, 1977, should be allowed.

IT IS, THEREFORE, ORDERED that the Petition filed by Piedmont Natural Gas Company, Inc., to add a new industrial customer pursuant to the Commission's Orders dated August 10, 1977, and September 8, 1977, be, and the same is hereby, allowed, as above described.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of October, 1977.

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

Commissioners Koger, Tate, Deane, Fischbach, Roney and Winters, concurring.
Commissioner Hammond, abstaining.

DOCKET NO. G-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding Concerning	) ORDER GRANTING PETITION
Load Growth Policies of North	) TO ADD NEW
Carolina Gas Distribution Utility	) NONRESIDENTIAL
Companies	) CUSTOMERS

BY THE COMMISSION: On 8 September 1977 the Commission issued an order which provided that requests for connections of nonresidential customers should be submitted to the Commission in the form of written petitions and would be considered by the Commission on a case by case basis pending final decision and order in the above-captioned proceeding.

On 3 October 1977 Public Service Company of North Carolina, Inc., (Public Service) filed a Petition requesting permission to add thirty-four commercial customers and provide them with natural gas service. Attached to the Petition was an exhibit listing these potential customers and their annual volume requirements, which total 21,040 Mcf. All of the customers requesting such service would be in Priority 1.2 of the priority systems proposed by Piedmont Natural Gas Company, Inc., and the Public Staff.

Upon consideration of the Petition, the order of 8 September and the entire record herein, the Commission is of the opinion that Public Service should be permitted to add all of the customers listed to the extent that such customers are located on existing mains.

IT IS, THEREFORE, ORDERED that Public Service Company of North Carolina, Inc., be, and is hereby granted permission to provide natural gas service to the customers listed with its Petition filed herein on 3 October 1977 to the extent that such customers are located on the company's existing mains.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of October, 1977.

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

DOCKET NO. G-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding Concerning Load Growth Policies of North Carolina Gas Distribution Utility Companies	) SUPPLEMENTAL ORDER REGARDING) PRIOR COMMITMENTS FOR) SERVICE NOT LOCATED ON) EXISTING MAINS

BY THE COMMISSION: On January 18, 1977, the Commission issued an Order enjoining the five North Carolina gas distribution companies from adding any new customers except those previously committed and replacement customers or additional uses in categories Q and R as thereinafter provided. On October 25, 1977, the Commission issued an Order Establishing Attrition Replacement Rules authorizing the companies to add additional customers in Priorities 1.1 through 2.1 on mains existing on October 1, 1977, to replace gas volumes lost through attrition to the maximum volume of

102% of the companies' base period volumes set forth in TRANSCO's allocation system for Priorities 1.1 through 2.1 up to 50 mcf per day. This Order further provides that commitments not located on existing mains for Priorities 1 through 5 shall be made only after petition by the gas company on a case by case basis. Decretal Paragraph Number 1 of the October 25, 1977, Order states that this Order supersedes all prior orders establishing a moratorium on new commitments and that such orders are rescinded to the extent they are in conflict with the new rules.

It has come to the Commission's attention that since January 18, 1977, the gas companies have been laying new mains in order to add new but previously committed customers in residential subdivisions which are being developed over a period of several years, and must continue to do so if they are to fulfill those commitments. While the Commission does not construe its Order of October 25, 1977, to proscribe such activity, the Commission is of the opinion that there should be no misunderstanding as to whether and to what extent the new rules authorize service to prior commitments not located on existing mains. The Commission is of the further opinion that each gas company should file information concerning the date of commitment, service location, number of feet of new main, and number and classification of new customers connected under such authorization.

IT IS, THEREFORE, ORDERED as follows:

1. That Decretal Paragraph Number 2 of the Order herein issued on October 25, 1977, be, and is hereby, amended to read as follows:

> 2. "That from and after the date of this Order, North Carolina natural gas distribution companies are hereby authorized to add additional Priority 1.1, Priority 1.2 and Priority 2.1 customers on mains existing on October 1, 1977, to replace gas volumes lost through attrition to the maximum volume of 102% of the distribution companies' base period volume set forth in the allocation system of Transcontinental Gas Pipe Line Corporation for Priority 1.1, Priority 1.2 and Priority 2.1 customers, up to a maximum of 50 Mcf per day; provided, however, that subject to the foregoing volume limitation, the companies may add additional Priority 1 customers not located on existing mains in the event commitments to serve such customers were made prior to January 18, 1977. Further, that each company shall file with the Commission a report showing the service location, number and classification of customers, number of feet of new main and date of commitment for each area served pursuant to the above proviso."

2. That Decretal Paragraph Number 3 of said order be, and is hereby, amended to read as follows:

3. "New customer commitments for Priorities 1 through 5 with nonboiler maximum demand usage greater than 50 Mcf per day and any commitments not located on existing mains for Priorities 1 through 5 shall be made only after petition by the gas distribution company to the Commission and approval of said petition on a case by case basis, dependent upon the feasibility of the proposed commitment and the ratio of the availability of the gas to the numbers and types of jobs provided to the economy of North Carolina by said new commitment; provided, however, that the companies may serve new Priority 1 customers requiring new mains subject to the limitations contained in Paragraph 2 above. The consideration of applications for new service requiring new mains in Piedmont's service area shall consider the availability of CD gas supplies in the North Carolina service area of Piedmont and the equitable allocation of gas between the North Carolina and South Carolina customers of Piedmont."

ISSUED BY ORDER OF THE COMMISSION.
This 28th day of November, 1977.

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

NOTE: Clerical errors described in Order dated December 2, 1977, incorporated in the above Order.

DOCKET NO. G-100, SUB 21
DOCKET NO. G-9, SUB 163

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Docket No. G-100, Sub 21: Rulemaking Proceeding Concerning Load Growth Policies of North Carolina Gas Distribution Utility Companies	) ORDER ESTABLISHING ATTRITION REPLACEMENT RULES
Docket No. G-9, Sub 163: Complaint of the Brick Association of North Carolina Regarding Piedmont's Load Growth Policy	)

HEARD IN: Main Commission Hearing Room, Dobbs Building, Raleigh, North Carolina

DATES: August 23 - 26, 1977, and September 27 - 30, 1977

BEFORE: Chairman Robert K. Koger, Presiding; Commissioners Tenney I. Deane, Jr., Ben E. Roney, Sarah Lindsay Tate, Dr. Robert Fischbach, John W. Winters, and Dr. Leigh H. Hammond

APPEARANCES:

For the Respondents:

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For: Transcontinental Gas Pipe Line Corporation

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For: Public Service Company of North Carolina, Inc.

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Box 2129, Fayetteville, North Carolina 28302
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Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, P. O. Drawer U, Greensboro, North Carolina 27402
For: Piedmont Natural Gas Company, Inc.

T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, P.O. Drawer U, Greensboro, North Carolina 27402
For: United Cities Gas Company and Pennsylvania & Southern Gas Company

For the Intervenors:

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For: Glen Lennox Corporation; Robinson O. Everett, d/b/a Poplar Apartments and Holly Hill Apartments; University Housing Corporation; Alastair Housing Corporation; J. W. York & Co.; Fred S. Worthy, Jr., and Marvin L. Wachtel III,

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For the Attorney General:

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For the Public Staff:

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For: The Using and Consuming Public

Robert F. Page, Staff Attorney, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding is before the Commission on the Order of January 18, 1977, reopening this docket and setting hearing for the purpose of reviewing the load growth policies of the five gas distribution companies in North Carolina and determining the load growth rules to be adopted for future application by said distribution companies in North Carolina.

The most recent general load growth policy was adopted by Order of January 3, 1975, based upon the shortage of gas available for new customers and load growth was limited to the following services:

(1) New applicants would be considered only on premises located on existing mains.

(2) The gas distribution companies' gas supply would have to be sufficient to serve the additional load.

(3) Priority for new gas service, subject to conditions (1) and (2) would be given to applicants in the highest curtailment categories as prescribed in Docket No. G-100, Sub 18.

By Order of January 18, 1977, further severity of the gas shortage and the cold weather required that the Commission impose a total moratorium on any new connections without specific written permission from the Commission.

By Order of May 4, 1977, the moratorium was continued in effect pending further hearing by the Commission.

By Order of August 8, 1977, the Commission continued the moratorium but provided that on an interim basis the Commission would consider case by case requests for service for process gas services needed to locate new industry and new jobs in North Carolina.

By Order of September 10, 1977, further interim relief was granted for addition of residential customers within the base load limits.

The Commission conducted public hearings beginning October 5, 1977, to determine the projected gas supplies available for addition of new customers, and heard extensive testimony from the gas distribution companies, the Public Staff, and numerous intervenors supporting the need for new gas connections to support new industries, and new homes, and included testimony of certain intervenors in opposition to unlimited new customers based on the continued shortage of gas.

Based upon the record herein and the evidence from the public hearing, the Commission makes the following

FINDINGS OF FACT

1. The public policy of North Carolina is to promote industrial and economic growth. In January 1974 some 808,000 Tar Heels were employed in the production of goods. In June 1977 this figure was 794,000, indicating a negative growth rate in that period.

2. North Carolina needs to increase manufacturing employment by 27,000 in each of the next seven years to restore and maintain our historical growth rate.

3. Since June 1, 1973, some 34 firms with potential employment for 11,380 North Carolinians - all of whom were in the high growth rate and high wage level groups entirely suitable to North Carolina, and all of whom required process gas dropped North Carolina from consideration because of the shortage of natural gas. Most of these were able to obtain gas commitments in other states, some of which are neighboring states. North Carolina has never returned to the employment level which existed before the oil embargo of 1973. The negative effects of winters such as 1976-77 are inestimable.

4. The availability of natural gas is a key to North Carolina's economic growth rate. Continuation of a viable retail distribution system is vital to all North Carolinians. No single customer class can support the system alone. All are required, and each class must contribute to the total cost of the service in accordance with the demands made upon it by the class.

CONCLUSIONS

Considering (a) the need for economic growth in North Carolina, (b) the close relationship of natural gas distribution service to that growth, and (c) the comparative advantage which still would exist for natural gas over other fuels at all levels, it is our conclusion that the moratorium on new service connections should be lifted to the extent set out in the ordering paragraphs below to the extent of 102% growth in each class over 1973 consumption levels, provided that any proposed new connection having a maximum demand in excess of 50 Mcf shall be determined by the Commission on petitions on a case by case method on the basis of feasibility.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Orders of this Commission issued on January 18, 1977, May 4, 1977, and August 8, 1977 and all other Orders of this Commission establishing a moratorium on new commitments for new gas service is hereby superseded by this Order Establishing Attrition Replacement Rules, and to the extent they are in conflict with this Order is hereby rescinded.

2. That from and after the date of this Order, North Carolina natural gas distribution companies are hereby authorized to add additional Priority 1.1, Priority 1.2 and Priority 2.1 customers on mains existing on October 1, 1977, to replace gas volumes lost through attrition to the maximum volume of 102% of the distribution companies' base period volume set forth in the allocation system of Transcontinental Gas Pipe Line Corporation for Priority 1.1, Priority 1.2 and Priority 2.1 customers, up to a maximum of 50 Mcf per day.

3. New customer commitments for Priorities 1 through 5 with nonboiler maximum demand usage greater than 50 Mcf per day and any commitments not located on existing mains for Priorities 1 through 5 shall be made only after petition by the gas distribution company to the Commission and approval of said petition on a case by case basis, dependent upon the feasibility of the proposed commitment and the ratio of the availability of the gas to the numbers and types of jobs provided to the economy of North Carolina by said new commitment. The consideration of applications for new service requiring new mains in Piedmont's service area shall consider the availability of CD gas supplies in the North Carolina service area of Piedmont and the equitable allocation of gas between the North Carolina and South Carolina customers of Piedmont.

4. That no gas distribution company shall make any new connection of a new service which is not expressly authorized under this Order.

5. That the natural gas distribution companies shall conduct programs of advising all customers through individual mailouts and mass media of the need for conservation of natural gas in order to protect the economy of North Carolina and the jobs dependent upon conservation of natural gas for process gas purposes, and to promote the management of customer loads to this end.

6. This docket shall remain open for review and revision upon application or petition or upon the Commission's own motion if national energy policies and supplies make it possible to remove or modify the restrictions on new services remaining in effect.

ISSUED BY ORDER OF THE COMMISSION.
This 25th day of October, 1977.

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

Deane, Commissioner, not participating.
Hipp, Commissioner, abstaining.

DOCKET NO. G-100, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rulemaking Proceeding and Investigation into the Feasibility of Increasing the Supply of Natural Gas in the State of North Carolina	ORDER RECOGNIZING INTERVENTION; GRANTING MOTION; AMENDING PRIOR COMMISSION ORDER AND RULE

BY THE COMMISSION: On July 28, 1977, a Notice of Intervention and Motion was filed in this docket by the Public Staff. G.S. 62-15(d)(3) requires the Public Staff to intervene in all Commission proceedings affecting the rates or service of any public utility. This docket and Commission Rule R1-17(h) adopted pursuant hereto affect the rates and service of all public utility natural gas companies in the State of North Carolina. Therefore, the Commission is of the opinion that the Intervention of the Public Staff herein should be recognized pursuant to G.S. 62-15.

The Motion filed by the Public Staff requests the Commission to allow representative(s) of the Public Staff, as designated from time to time by the Executive Director, to participate in conferences, committee meetings and audits involving and to have access to data concerning the exploration activities of the North Carolina gas distributing utility companies on the same basis as representative(s) of the Commission. The Commission is of the opinion, good cause having been shown therefor, that the interest of the Using and Consuming Public would be served

by allowing the participation in exploration activities of Public Staff representatives on the same basis as representatives of the Commission.

IT IS, THEREFORE, ORDERED:

1. That the Notice of Intervention filed herein by the Public Staff be, and the same is hereby, recognized pursuant to G.S. 62-15.

2. That the Motion of the Public Staff to have its representative(s), as selected by the Executive Director, participate in exploration activities on the same basis as Commission representative(s) be, and the same is hereby, allowed.

3. That decretal paragraph 5 of the Commission's Order of June 26, 1975, is hereby amended to read as follows:

"5. The expenses of the representative(s) of the Commission and of the Public Staff (as created by G.S. 62-15) in observing and participating in the various exploration activities shall be expensed as a part of the overall costs to be recovered by the rulemaking procedure hereafter provided."

4. That Commission Rule R1-17(h)(1) is hereby amended by inserting the following words ", one representative of the Public Staff to be designated by the Executive Director" immediately following the words "North Carolina Utilities Commission" in the first sentence thereof; and further amended by inserting the words ", the committee member designated by the Executive Director of the Public Staff" immediately following the words "this Commission" in the last sentence thereof.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of August, 1977.

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

DOCKET NO. G-100, SUB 22D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding and Investigation into the Feasibility of Increasing the Supply of Natural Gas in the State of North Carolina	) ORDER AUTHORIZING CONTINUED PARTICIPATION IN EXPLORATION AND DRILLING VENTURE

BY THE COMMISSION: The Commission's Order of June 26, 1975, in the above-captioned dockets 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. The expenses incurred by the distribution companies 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.

On 26 January 1977 the Exploration Committee provided for by Rule R1-17(h) submitted a request for the continuation of the Enterprise Resources, Inc., (ERI) Limited Partnership Program for an additional one-year period. The Committee also resubmitted data sheets reflecting changes in the estimated amounts to be spent in exploration and development and changes in the working interest and net revenue interest. The Commission Staff has reviewed the data filed in support of the request and has found it to be proper in form and in content. At the Commission's direction, an appraisal of the revenues found by ERI for the period ended 19 October 1976 was made by the firm of Monkhouse, Brown & Associates, Petroleum and Coal Consulting Engineers, located in Dallas, Texas. On 1 April 1977 the Commission received a copy of this appraisal.

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 operator of the program is Enterprise Resources, Inc., Limited Partnership, a subsidiary of Stone and Webster, whose success record for exploration and development of new sources of natural gas supply meets or exceeds industry standards.

2. All five North Carolina natural gas utilities, Piedmont, Public Service, North Carolina Natural, United Cities and Pennsylvania & Southern request permission to continue as limited partners in the joint venture.

3. The initial duration of the program was for one year with the intention of the parties to continue the program for an additional two (2) years and annually thereafter if successful.

4. By order issued 12 August 1975 the Commission approved the Enterprise Resources, Inc., Limited Partnership and authorized the five participating North Carolina gas utilities to subscribe for a period of one year.

5. The presently proposed one-year program would have a total cost of $5,594,729 of which $3,729,729 is allocated to exploration and $1,865,000 to development.

6. The exploration charges for the participating North Carolina companies will be $950,000, allocated as follows: Public Service - $420,000; Piedmont - $250,000; North Carolina Natural - $250,000; United Cities - $15,000, Penn and Southern - $15,000. Enterprise Resources, Inc., (the operator) will make a $600,000 investment and other gas distribution companies will put up the balance of $2,179,729 for exploration.

7. Development charges for the five participating North Carolina companies, assuming average exploration success, will amount to $475,000 allocated as follows: Public Service - $210,000; Piedmont - $125,000; N.C. Natural - $125,000; United Cities - $7,500; Penn and Southern - $7,500. Enterprise Resources, Inc., will invest $300,000 and other participants will invest the $1,090,000 balance of the $1,865,000 development cost.

8. As of 31 October 1976 North Carolina ratepayers' share of proven probable and possible reserves in wells completed by ERI, Ltd., consisted of 73,709 barrels of oil and condensate and 2,146,832 Mcf of gas.

9. The cost of finding the estimated reserves assigned to interest owned by North Carolina ratepayers is as follows:

RESERVE CATEGORY	FINDING COST PER EQUIVALENT MCF
Proved Producing and Behind Pipe	$0.32
Proved plus probable	0.19
Proved, probable and possible	0.18

10. The cost of finding gas through ERI, Ltd., is substantially less than the $3.00 to $5.00 per Mcf estimated cost of alternate supplies.

11. The additional volumes will benefit North Carolina ratepayers through application of the volume variation adjustment factor or curtailment tracking rate heretofore approved by this Commission for all five gas utilities.

Based upon the foregoing, the Commission makes the following

CONCLUSIONS

The Commission is of the opinion that there is a reasonable prospect that continuation of the ERI, Ltd., program already begun will produce natural gas reserves deliverable to North Carolina in sufficient quantities to justify the proposed expenditures and that the finding cost is reasonable in relation to the cost of possible alternate supplies. The Commission therefore concludes that continued participation in the ERI, Ltd., program by the five North Carolina gas utilities is just and reasonable under the standards adopted by the Commission in its Rulemaking Order

issued 26 June 1976, and Commission Rule R1-17(h), and that continuation of such program merits the approval of the Commission subject to further Commission scrutiny at the time the 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 as follows:

1. That the Enterprise Resources, Incorporated, Limited Partnership in the form presented to the Commission be, and the same is hereby, approved for an additional one-year period and the five North Carolina natural gas utilities are hereby authorized as a group to continue for one year to subscribe to or invest in such program either directly or through wholly-owned subsidiaries.

2. That the approval of continued investment in ERI, Ltd., be, and the same is hereby, limited to the amounts discussed herein and is further limited in time to a period of one year from and after the first full year's participation by the North Carolina gas utilities.

3. That further renewals of this limited partnership for additional investment amounts and extended duration shall be subject to further approval by the Commission upon receipt of an application for such approval.

ISSUED BY ORDER OF THE COMMISSION.
This 18th day of April, 1977.

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

DOCKET NO. G-100, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rulemaking Proceeding for Curtailment of) ORDER REVISING
Gas Service Due to Gas Supply Shortage) RULE R6-19.2

HEARD IN: Main Commission Hearing Room, Dobbs Building, Raleigh, N. C.

DATES: August 23 - 26, 1977, and September 27 - 30, 1977

BEFORE: Chairman Robert K. Koger, Presiding; Commissioners Tenney I. Deane, Jr., Ben E. Roney, Sarah Lindsay Tate, Dr. Robert Fischbach, John W. Winters, and Dr. Leigh H. Hammond

APPEARANCES:

For the Respondents:

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For: Public Service Company of North Carolina, Inc.

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Box 2129, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation

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T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, P.O. Drawer U, Greensboro, North Carolina 27402
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For the Intervenors:

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For: The Ball Corporation

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For: Aluminum Company of America

Jacqueline Bernat, Attorney at Law, Aluminum Company of America, Pittsburgh, Pennsylvania
For: Aluminum Company of America

Harold H. Smith, Attorney at Law, Cannon Mills Company, Kannapolis, North Carolina 28025
For: Cannon Mills Company

M. Alexander Biggs, Biggs, Meadows, Batts, Etheridge & Winberry, Attorneys at Law, P. O. Drawer 153, Rocky Mount, North Carolina 27801
For: Brick Association of North Carolina

Charles Winberry, Biggs, Meadows, Batts, Etheridge & Winberry, Attorneys at Law, P. O. Drawer 153, Rocky Mount, North Carolina 27801
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For: CF Industries, Inc.

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For: CF Industries, Inc.

William G. Hancock, Everett, Everett, Creech & Craven, Attorneys at Law, P. O. Box 586, Durham, North Carolina 27702
For: Glen Lennox Corporation; Robinson O. Everett, d/b/a Poplar Apartments and Holly Hill Apartments; University Housing Corporation; Alastair Housing Corporation; J. W. York & Co.; Fred S. Worthy, Jr., and Marvin L. Wachtel III, d/b/a Glenwood Arms Apartments

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For the Attorney General:

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For: The Using and Consuming Public

For the Public Staff:

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Robert F. Page, Staff Attorney, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On July 14, 1977, Piedmont Natural Gas Company, Inc. (Piedmont), filed with the Commission a Petition requesting that Rule R6-19.2 - Curtailment of Gas Service, adopted in the above-captioned docket by Order dated September 9, 1975, be replaced in its entirety by proposed curtailment priorities attached to the Petition as Exhibit A. By Order issued July 15, 1977, the Commission consolidated the matter for hearing with Docket No. G-100, Subs 21 and 33, making all five North Carolina gas utilities and the Commission's Public Staff parties to the proceedings. The Public Staff subsequently submitted its own proposed curtailment priority system for consideration. Hearings were held on August 23 through 26, 1977, and September 27 through 30, 1977. Witnesses for the several parties testified with respect to both proposals and suggested modifications to them. The Commission has taken judicial notice of Opinion Nos. 778 and 778A issued by the Federal Power Commission.

Based upon the evidence adduced at the hearings and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. Rule R6-19.2 of the Rules and Regulations of the North Carolina Utilities Commission sets forth certain procedures and priorities of service to be followed by natural gas distribution companies during periods when available supplies of natural gas are insufficient to supply the demands of all customers.

2. This Commission's Rule R6-19.2 was last amended in Docket No. G-100, Sub 24, by Order dated September 9, 1975. At that time, the natural gas distribution companies were being curtailed by Transco pursuant to an interim curtailment plan approved by the FPC in Docket No. RP72-99.

3. On October 8, 1976, the FPC issued Opinion No. 778. This Opinion, as later modified on December 8, 1976, by Opinion No. 778A, established revised curtailment procedures and priorities under which gas is allocated to Transco's customers. These revised curtailment procedures and priorities are substantially different from those procedures and priorities which were being followed by Transco at the time of the last revision of Rule R6-19.2.

4. It is important that the priorities of curtailment set forth in Rule R6-19.2 be reasonably consistent with the priorities of curtailment set forth in Opinion No. 778A for the following reasons:

(a) If the FPC should update the data base period used for allocation of Transco's gas to North Carolina and this Commission were to adopt curtailment priorities requiring the sale of gas to customers who have a low priority under Opinion No. 778A, North Carolina could lose substantial volumes of gas in the future.

(b) Opinion No. 778A has a curtailment exemption to protect FPC Priority 1. FPC Priority 1 should be contained in a separate North Carolina priority to assure qualification with this exemption.

(c) From time to time, laws and/or regulations have been adopted which forbid the sale of gas to certain FPC priorities. For example, Section 4 of the Emergency Natural Gas Act of 1977 allowed the President to require gas to be delivered to FPC Priority 1 users, and the administrator of the Act in his Order No. 6 prohibited the use of gas to serve FPC Priorities 4-9. During the 1976-77 winter, the State's natural gas distributors would have been unable to purchase emergency gas if the North Carolina curtailment priorities had required the sale of gas to customers in FPC Priorities 4-9.

(d) Since the State's distribution companies must file considerable data with both the FPC and this Commission concerning their sale of gas by curtailment priorities, the adoption by this Commission of priorities which differ substantially from FPC priorities will require the costly maintenance of two separate record keeping systems.

5. Both Piedmont and the Public Staff have presented curtailment plans to this Commission. While both of these plans purport to follow the FPC priorities, the Public Staff plan reflects adjustments designed to adapt the FPC Orders to specific North Carolina markets. More specifically, the Public Staff has placed commercial usage of 50 to 100 Mcf

per day (2.1) before industrial usage of less than 50 Mcf per day (2.2); under Piedmont's plan, these two are reversed. Also, the Public Staff has placed commercial nonboiler usage above 100 Mcf per day in its 2.3 priority, while Piedmont placed some of these customers in 2.2 if they have no alternate fuel, and use between 100 and 300 Mcf per day. Finally, the Public Staff has placed boiler fuel customers between 50 and 300 Mcf per day in Priority 6.1; these customers fall into Piedmont's Priority 3.2.

Whereupon, the Commission reaches the following

CONCLUSIONS

The Commission is of the opinion that both the Piedmont and the Public Staff curtailment plans are well designed and therefore has adopted what it deems to be the best features of each. Considering the FPC priorities, specific North Carolina markets, the level of curtailment, and the national administration's energy proposals, the Commission concludes that the priorities for curtailment of service attached hereto as Appendix A are just and reasonable and should supplant present Commission Rule R6-19.2 as to the State's five natural gas utilities. The Commission further concludes that the utilities should continue to furnish information which will enable it to monitor the levels of service to all classes of customers within the new priority plan.

IT IS, THEREFORE, ORDERED as follows:

1. That Commission Rule R6-19.2 be, and is hereby, amended by substituting in lieu thereof the curtailment plan attached hereto as Appendix A.

2. That each natural gas utility shall file with the Commission for monitoring and review a monthly report of sales by priorities according to the revised Rule R6-19.2 adopted herein.

ISSUED BY ORDER OF THE COMMISSION.
This 25th day of October, 1977.

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

NOTE: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. G-100, SUB 29
DOCKET NO. G-5, SUB 125
DOCKET NO. G-9, SUB 162
DOCKET NO. G-21, SUB 160

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding for Pricing of Natural Gas Acquired through Emergency Purchases	) ORDER AMENDING ORDERS OF) 8 DECEMBER 1976 ESTABLISHING) AND IMPLEMENTING POLICY FOR) PRICING OF EXCESS COST) EMERGENCY GAS PURCHASES

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 14, 1977, at 10:00 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:

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For: Piedmont Natural Gas Company

James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina
For: Public Service Company of North Carolina, Inc.

For the Intervenors:

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For: CF Industries, Inc.

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For the Using and Consuming Public:

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For the Commission Staff:

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Antoinette R. Wike, Associate Commission Attorney, N.C. Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On 8 December 1976 the Commission issued an order in the above docket establishing its policy for the pricing of the excess cost of emergency natural gas purchased by the five North Carolina gas distributors during the winter period 1976-77. The Commission found in its 8 December 1976 order that while present Transco (Transcontinental Gas Pipe Line Corporation, North Carolina's sole supplier) gas supplies were adequate to serve residential customers, the existing shortage for the winter season created an emergency severely impacting some firm customers, including commercial operations. The Commission therefore concluded and ordered that the five gas distribution companies purchase quantities of emergency natural gas sufficient to serve their firm customers during a colder than normal or design winter season and to recover the excess cost of such gas by a uniform prorated mcf surcharge to all customers except residential customers, giving to those customers paying the surcharge the full benefit of the emergency gas volumes under the volume variation adjustment or curtailment tracking adjustment.

The order further provided that the actual rate calculations, tariffs, and other filings for the emergency purchase surcharge would be filed in a separate emergency gas purchase rate docket for each of the five distribution companies. These dockets were established by orders issued 8 December 1976 and separate emergency purchase surcharges were approved thereafter.

On 4 February 1977 Public Service Company of North Carolina, Inc., filed in Docket Nos. G-100, Sub 29, and G-5, Sub 125, a Motion that the Commission amend its prior orders in these dockets so as to make the surcharges provided therein applicable to all gas sales by the company. In support of its motion, Public Service showed that as the result of extremely cold weather (56% colder than normal in January) the company has had to curtail all of its customers except those in Priorities R.1 and R.2 and, although it has been required to sell some emergency gas to residential customers, the company has been unable to recover the excess cost of such gas from these customers. Public Service

states that it had unrecovered excess costs of emergency purchase gas totaling $340,078 at 30 January 1977 and has contracted for the delivery of an additional 2,430,284 mcf, at a cost of $3,766,940 in excess of pipeline gas, for the remainder of the winter period.

On 8 February 1977 Piedmont Natural Gas Company, Inc., filed a similar motion requesting that the Commission reconsider its 8 December 1976 orders and permit the company to roll-in to all of its customers the excess cost of emergency gas for the remainder of the 1976-77 winter season. Piedmont also stated that some emergency gas was required by the company to meet the peak needs of its residential customers.

On 10 February 1977 the Commission issued an Order setting the above motions for hearing on 14 February 1977 and requiring the companies to file additional information. The Commission stated in its order that it would consider at the hearing efforts by the utilities to purchase additional volumes of emergency gas, whether sales of large volumes of natural gas to high priority users have produced revenue sufficient to enable the utilities to cover the excess cost of emergency gas during the winter season and whether emergency gas will be required to serve residential customers during the remainder of the 1976-77 winter season. The Order provided that the other three gas utility companies should attend the proceedings but not participate except upon the filing of a petition in the matter.

On 11 February 1977 North Carolina Natural Gas Corporation filed its Motion for reconsideration and amendment of the 8 December 1976 orders, and the Commission issued an order consolidating the motion for hearing along with the motions of Piedmont and Public Service and subject to the same informational requirements.

The matter came on for hearing before the Commission as scheduled.

Two public witnesses, representing customers of Public Service Company of North Carolina, Inc., and Piedmont Natural Gas Company appeared at the hearing and presented their views concerning the current shortage of natural gas and the need for extended time in which to pay winter gas bills.

Charles E. Zeigler, President and Chief Executive Officer of Public Service Company, testified that his company serves 110,000 residential, 14,000 small commercial, and 50 large commercial customers, the remainder being industrial. The Company completely discontinued service to all firm industrial customers on 20 January 1977; curtailment in the Public Service system this winter has affected some three to four thousand jobs. Mr. Zeigler stated that the transfer of sales from industrial and commercial to residential customers has produced no increase in cents per mcf to

Public Service and further that under the current pricing mechanism Public Service will recover only one-third of the excess cost of emergency purchase gas during the next two months, thus creating a serious cash flow problem for the company. Mr. Zeigler further testified that at current prices plus Public Service's proposed $.59/mcf surcharge to all customers, a residential customer would pay $3.00 per million BTUs for natural gas as compared to $3.50 for fuel oil, $11.80 for electricity and $6.00 for propane.

Public Service also offered the testimony of E. L. Flanagan, Jr., Vice-President and Treasurer, who identified and described an exhibit showing the excess cost of emergency purchases and computation of the proposed surcharge. He also presented an exhibit showing dollar and mcf sales by rate schedules for December 1975, January and December 1976, and January 1977 as well as the twelve months ended December 1976 and January 1977. Mr. Flanagan testified that the margins (revenues less cost of gas and gross receipts taxes) for these periods were as follows: December 1975, $1,957,718 (70¢/mcf); January 1976, $3,161,869 (81¢/mcf); December 1976, $2,474,868 (72¢/mcf); January 1977, $3,220,143 (80¢/mcf); twelve months ended 31 December 1976, $25,265,034 (88¢/mcf); twelve months ended 31 January 1977 $25,323,307 (88¢/mcf). Stating that information was not available for January 1977, Mr. Flanagan presented a statement per books, of earnings for December 1976 and the twelve months to date.

C. Marshall Dickey, Vice President, Gas Supply, with Public Service Company, testified that weather in Public Service's area had been 30% colder than normal during the first ten days of February. He further stated that under Section 13.4 of Transco's tariffs and its EPX - EPY emergency purchase provisions, Public Service is unable to obtain emergency gas to serve industrial customers.*

* The Commission is in receipt of a telegram from Transco, dated 15 February 1977, advising that effective immediately, the maximum daily limitations currently in effect with respect to remaining average daily entitlement were being rescinded thus rendering moot Transco's policy, with respect to emergency relief under Section 13.4 of its tariffs, concerning EPX and EPY gas.

Calvin B. Wells, Vice President with North Carolina Natural Gas Corporation, testified that the average temperature in North Carolina Natural Gas Corporation's service area so far this winter has been 37% below normal, 51% in January and 40% during the first ten to fourteen days in February. The Company completely discontinued service to all firm industrial customers on 17 January 1977, he stated, and has made no attempt to obtain "2.68 gas" (gas purchased under the Federal Power Commission's Statements of General Policy and Interpretations, 18 CFR 2.68) for fear that such volumes would offset EPX volumes purchased from Transco.

Mr. Wells offered exhibits, attached to North Carolina Natural Gas Corporation's motion, which tended to show the following: in order to serve its Priority R.1 and R.2 customers during February and March, North Carolina Natural Gas Corporation will need to purchase 1,822,899 mcf of emergency gas, making a total of 3,561,115 mcf of such gas purchased for the entire winter period; as of 31 January 1977 North Carolina Natural Gas Corporation had recovered under its emergency purchase surcharge $2,284,670, or $629,222 more than the excess cost of emergency gas to date, leaving $2,133,426 to be recovered over the remainder of the winter period; maximum daily CD gas available plus average remaining storage withdrawal from all sources will be insufficient to meet all of the company's residential customer requirements for the remainder of the winter period.

Piedmont Natural Gas Company offered the testimony and exhibits of Earl C. Chambers, Senior Vice President. Mr. Chambers stated that Piedmont would be able to recover the excess cost of emergency purchase gas during the remainder of the winter period through a surcharge of $.27 per mcf to all customers, assuming a normal winter, but, if residential customers were excluded, the amount of the surcharge would have to be $.89 per mcf. According to Mr. Chambers, Piedmont will have to recover $1,463,924 in excess cost of emergency gas during the remainder of the winter period, assuming normal weather, and $2,059,215 if the weather is 15% colder than normal. He further testified that as of 8:00 a.m. on 14 February 1977 temperatures in Piedmont's service area were running 28.3% colder than normal. Mr. Chambers' exhibits showed that Piedmont has already used emergency purchase gas to serve residential customers and that supplies other than emergency gas will be insufficient to meet residential requirements during the remainder of the winter period.

Based upon the foregoing, the motions of the gas utilities, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That, since the issuance of the Commission's orders of 8 December 1976 in these dockets, the shortage of natural gas to North Carolina for the winter heating season has deepened due primarily to severe weather conditions in this state as well as in Transco's entire service area.

2. That each of the three major gas distributors in North Carolina has had to curtail service to all firm and interruptible industrial customers and is presently serving only its customers in Priorities R.1 and R.2.

3. That remaining entitlements of CD-2 gas from Transco appear to be sufficient to meet the requirements of residential (R.2) customers under normal weather conditions.

4. That, in addition to flowing gas supplies, emergency gas purchases have been and will continue to be needed to serve the peak requirements of residential (R.2) customers on colder than normal days for the remainder of the winter heating season.

5. That the winter in North Carolina has averaged 38% colder than normal through January 1977.

6. That, under the current pricing policy established by the Commission in this docket, the three major gas distributors will be unable to recover the full excess cost of emergency gas purchases by the end of the winter heating season.

7. That additional revenues resulting from changes in sales mix due to colder than normal weather are not determinable at this time.

8. That no change in circumstance sufficient to justify rolling-in the excess cost of emergency purchase at this time has been shown.

9. That it is reasonable and fair to require residential (R.2) customers to pay the excess cost of emergency natural gas used to serve them in severely cold weather during the remainder of the winter heating season as nearly as can be determined.

Whereupon, the Commission reaches the following

CONCLUSIONS

While the evidence of record in this proceeding is inconclusive with respect to rolled-in pricing of the excess cost of emergency gas during the remainder of the winter heating season, it is clear that circumstances have changed since the Commission issued its orders of 8 December 1976. Some emergency purchase gas has in fact been used to serve residential (R.2) customers, and indications are that this is likely to be the case for the remainder of the season if temperatures continue to average 38% colder than normal. The evidence further shows that, with the curtailment of all industrial users, three of the gas distribution companies will be unable under present pricing policies to recover all of the excess cost of emergency gas purchases by 31 March 1977, the end of the current winter heating season.

Accordingly, the Commission concludes that its orders of 8 December 1976 should be amended in the following manner: assuming that the remaining supplies of CD-2 gas for February and March 1977 are used first to serve R.2 customers under the Commission's priority system; and, further, assuming that remaining storage volumes are allocated to Priority R.2 customers based on the ratio of Priority R.2 sales requirements to total sales as forecasted for the period 1 November 1976 to 31 March 1977, assuming

normal weather, under the FPC 467-B Plan; and, further, assuming that the resulting balance of R.2 requirements under 38% colder than normal weather conditions are satisfied by emergency purchase gas, the three gas distribution companies which participated in the instant proceedings should file tariffs reflecting revised surcharges to enable them to recover from residential (R.2) customers that portion of the excess cost of emergency purchase gas required to serve them during 38% colder than normal weather and to recover the remainder of the excess cost of such gas from all other customers during the remainder of the winter heating season.

The Commission further concludes that the utilities should keep their customer billing tapes for the next two months or billing cycles so that, should anticipated colder than normal temperatures not be experienced, the Commission may determine in another hearing what amounts, if any, should be refunded under the revised tariffs filed pursuant to this order. The Commission will also consider in a later hearing whether, to the extent additional revenues result from the change in sales mix due to colder than normal weather conditions from 1 January 1977 to 31 March 1977, such revenues should be used to offset the actual excess cost of emergency purchase gas recoverable by the utilities.

FURTHER CONCLUSION

Company witnesses in this proceeding testified that their residential customers have achieved up to 10% conservation in natural gas usage while experiencing severely cold weather. The Commission is of the opinion that such efforts are commendable and urges that they continue. The Commission cautions, however, that as long as CD-2 gas volumes supplied by Transco are supplemented by ever-increasing amounts of emergency purchase gas and gas from other sources in order to meet firm requirements, including residential, the cost of gas to the utilities and the retail price to all customers may be expected to rise and even greater conservation will be needed.

IT IS, THEREFORE, ORDERED as follows:

1. That, to the extent not allowed by the provisions of this order, the motions of Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation in the above dockets are hereby denied.

2. That Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation shall file on one day's notice subject to Commission review and approval tariffs in Docket Nos. G-5, Sub 125, G-9, Sub 162 and G-21, Sub 160, respectively, reflecting revised surcharges to enable them to recover from residential customers over the next two billing cycles that portion of the excess cost of emergency

purchase gas required in addition to CD-2 gas and allocated storage to serve them under 38% colder than normal weather and to recover the remaining excess cost of such gas from all other customers during their next two billing cycles, said tariffs to be accompanied by Undertakings for Refund of any amounts collected thereunder which later may be found unjust and unreasonable by the Commission.

3. That Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation shall calculate the emergency gas volumes required to serve residential customers for the period 1 February 1977 through 31 March 1977 assuming 38% colder than normal weather as follows:

a. Determine Priority R.2 volume requirements for the period.

b. Allocate all CD-2 volumes to Priority R.2 customers.

c. Allocate remaining storage volumes to Priority R.2 customers based on the ratio of the Priority R.2 requirements to total sales as forecast for the period 1 November 1976 through 31 March 1977 assuming normal weather under the FPC 467B Plan.

d. Determine the supply deficit to meet Priority R.2 requirements by deducting items b and c from item a.

e. The deficit determined in item d represents the volumes of emergency gas required to serve Priority R.2 customers.

The rate shall be calculated based on the volume requirements of all customers receiving gas for the period 1 February 1977 through 31 March 1977 under 38% colder than normal weather conditions.

4. That the revised tariffs filed pursuant to this order shall terminate at the end of the next two billing cycles of each of the three companies.

5. That Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation shall retain all individual customer billing tapes for the next two billing cycles and shall report to the Commission for review and analysis by the Commission Staff, on or before 30 April 1977, the excess costs incurred and the monies recovered under the surcharges approved by the Commission to enable them to recover the excess cost of emergency gas purchases during the 1976-77 winter season.

6. That this matter shall be set for hearing on Thursday, 19 May 1977, at 9:30 a.m., in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, for the purpose of determining

whether further rate adjustments are required in order to account for over or under collections under the emergency purchase surcharges approved in this docket.

7. That upon the filing of affidavits showing a change of conditions in their service areas and an inability to recover the excess cost of emergency gas during the remaining two months of the 1976-77 winter heating season, Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, and United Cities Gas Company shall be allowed to file tariffs, reflecting revised surcharges pursuant to the conditions contained in this order, subject to Commission review and approval.

8. That Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation shall give appropriate notice to their customers, by bill insert, of the actions taken herein.

9. That, except as amended herein, the Commission's orders of 8 December 1976 in these dockets are hereby reaffirmed.

ISSUED BY ORDER OF THE COMMISSION.
This 18th day of February, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Clive, Deputy Clerk

DOCKET NO. G-100, SUB 29

PURRINGTON, COMMISSIONER, CONCURRING: I dissented from the December 8, 1976, Order in this docket. I did not and cannot agree with the policy established therein which assigned "cheap" CD volumes to customers designated for highest priority service and allocated emergency gas (and its excess costs) to the remaining customers whose needs were assumed to necessitate its purchase.

However, at this point more than halfway through the winter's heating season, I feel it is more important to be consistent than to be right. The using and consuming public is entitled to whatever small amount of certainty we can assure them in the wildly fluctuating natural gas market. This amending Order is consistent with the policy stated in the December 8 Order. For that reason, I concur.

J. Ward Purrington, Commissioner

DOCKET NO. G-100, SUB 29
DOCKET NO. G-9, SUB 125
DOCKET NO. G-9, SUB 162
DOCKET NO. G-21, SUB 160

TEAL, COMMISSIONER, CONCURRING IN PART AND DISSENTING IN PART: I concur in that part of the Commission Order that

concludes a need exists to revise rates in order to recover the increased cost of emergency gas.

I dissent from the cost allocation which this order provides.

This hearing was held for the purpose of considering requests from the companies to reconsider the Commission's Order of December 8, 1976 (to which I dissented).

The main thrust of the testimony adduced at the hearing dealt with the results of the recent unexpected cold weather. The testimony tended to support the companies' contentions that the shifts in volumes (resulting from the shortage of gas and the implementations of the priority schedule) coupled with the rate disparities embodied in the December 8, 1976 Order, prevented those rate schedules from achieving their purpose of recovering the excess cost of the emergency gas. For this reason the companies asked for further rate relief in this proceeding so that the cost can be recovered in the remaining part of the winter season.

The Commission in this Order did not avail itself of the opportunity to correct the inequities of the December 8, 1976 Order (by rolling in the excess cost of emergency gas to all users), but rather has compounded the inequity by incrementally pricing to the small commercial customers (some of whom are residential) the remaining unrecovered cost of all emergency gas purchased over the entire winter season in the next two months' usage.

To illustrate the inequity that I see in both of these orders we need only compare the level of rates (as a percentage of the rate prior to the December 8, 1976 Order) of an average residential customer with that of a small commercial customer as a result of these two orders.

	Prior to 12/8/76 Order	12-8-76 Order	This Order
Residential	100%	106%	108%
Small Commercial	100%	136%	176%

If the rates charged the different classes of customers were fair and reasonable prior to the December 8, 1976 Order, then they could hardly have been fair and reasonable after the December 8, 1976 Order which increased one class by 36% and the other by 6% increase. Then, some two months later, to have the opportunity to make a "mid-stream" correction and to instead compound it to the extent of increasing one class by 76% and the other by only 8% needs a much heavier weight of evidence to support this discrimination than I can find.

The Commission relies on the "priority" system which governs the allocations of supplies in the event of shortage and is the basis on which the FPC allocates the cheaper CD-2

gas to the pipelines. The Commission Order of December 8, 1976 and the tariffs supporting it refute this in that some residential customers, i.e. public housing and master-metered apartments are served on rate schedules which include the surcharge.

The testimony given by the public witnesses only requested extended or more liberal terms for payment of the higher winter bills for low-fixed income users. They did not ask for preferential price treatment. No small commercial customers were represented at the hearing.

A rolled-in price to all customers for the two-month period would represent an increase in rates of about 25% for the two remaining months for residential and a decrease of 3% for small commercial. This would be the equivalent to about 33% increase in rates for all users for the entire winter season which I deem reasonable. Even if this were done, residential users of natural gas would be in a much more favorable position than those heating with other fuels.

All costs of gas should be rolled in to all customers receiving gas and liberalized credit terms should be granted as needed due to the extreme winter conditions.

W. Lester Teal, Jr., Commissioner

DOCKET NO. G-100, SUB 31

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Classification of Gas Utilities In Accordance with G.S. 62-300	) ORDER CLASSIFYING GAS UTILITIES UNDER G.S. 62-300)

BY THE COMMISSION: G.S. 62-300 prescribes fees and charges for filing of rate increases which the Commission shall receive in accordance with the classification of utilities as provided in the rules and regulations of the Commission. The Commission is of the opinion that customers of natural gas companies with less than $10,000,000 annual revenue will be subjected to unreasonable filing fee expense unless such companies are classified as Class D utilities under G.S. 62-300. The Commission is therefore of the opinion that with respect only to G.S. 62-300, the following definitions for gas utilities should be used:

1. Gas utilities having annual gas operating revenues of $10,000,000 or more from its operations within North Carolina shall be considered Class A utilities.

2. All other gas utilities shall be considered Class D utilities.

Based on the above,

IT IS, THEREFORE, ORDERED:

1. That gas utilities having annual gas operating revenues of $10,000,000 or more from its operations within North Carolina shall be considered Class A utilities for purposes of fees and charges under G.S. 62-300.

2. That all other gas utilities shall be considered Class D utilities for purposes of fees and charges under G.S. 62-300.

ISSUED BY ORDER OF THE COMMISSION.
This 25th day of February, 1977.

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

DOCKET NO. G-100, SUB 33

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Docket No. G-100, Sub 33: Rulemaking Proceeding for Pricing of Natural Gas Acquired through Emergency Purchases	) ORDER FOR PURCHASING AND PRICING OF EXCESS COST OF EMERGENCY GAS FOR THE 1977-1978 WINTER HEATING SEASON

HEARD IN: Main Commission Hearing Room, Dobbs Building, Raleigh, North Carolina

DATES: August 23 - 26, 1977, and September 27 - 30, 1977

BEFORE: Chairman Robert K. Koger, Presiding; Commissioners Tenney I. Deane, Jr., Ben E. Roney, Sarah Lindsay Tate, Dr. Robert Fischbach, John W. Winters, and Dr. Leigh H. Hammond

APPEARANCES:

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BY THE COMMISSION: On July 15, 1977, the Commission issued an Order establishing a rule-making proceeding for the purpose of reviewing the winter gas supply forecasts of North Carolina's five natural gas distribution companies and of considering alternative methods of pricing emergency gas purchases for the 1977-1978 winter heating season. The five utilities and the Public Staff of the Commission were made parties to the proceedings and were required to present evidence relating to total gas supply, emergency purchases under varying weather conditions, pricing methodologies, and the price of alternate fuels. The utilities were also required to sponsor a witness to report on the national administration's energy plan as it relates to the supply and pricing of natural gas to North Carolina. The Director of the Energy Division of the North Carolina Department of Commerce was invited to testify on the prospective availability of alternate funds in the State during the 1977-1978 winter period. The matter was consolidated for hearing with proceedings in Docket No. G-100, Subs 21 and 24, upon which the Commission is issuing separate Orders.

Based upon the evidence adduced at the hearings and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. The State of North Carolina is one of the most severely impacted states in the country with regard to the deficiency of contract volumes of natural gas because of the dependency of North Carolina on a single pipeline supplier, Transco. Curtailments of service by Transco to the State will be approximately 65% of contract volumes for the winter season November 1, 1977, through March 31, 1978.

2. The shortage of contract volumes of natural gas creates a temporary imbalance in supply and demand during the winter season which could severely impact customers who have traditionally purchased natural gas on a "firm" basis. Under the priority system for curtailment of service of natural gas (approved this day by Order issued in Docket No. G-100, Sub 24), the presently anticipated supplies of natural gas will not serve all of these traditionally firm customers in Priorities 1 and 2.

3. In order to provide natural gas service to customers in Priorities 1 and 2, the natural gas distribution companies must purchase additional supplies of gas. These additional supplies of gas are available only through the purchase of "emergency gas" under the provisions of Section 2.68 of the General Rules and Regulations of the FPC at estimated premium of $1.75 per Mcf over the price for Transco's CD-2 service.

4. In the past, various pricing methods have been used to enable the natural gas utilities to recover the excess cost of emergency gas purchases: (a) Rolled-in pricing in which such cost is included in the aggregate purchased gas cost of the utility and recovered on an average cost per unit basis from all customers; (b) incremental pricing in which such cost is borne by the customers creating the immediate requirement for additional supplies; and (c) modified rolled-in pricing in which such cost is borne by all customers except residential customers. For the present summer season, April 1, 1977, to October 31, 1977, such costs are being recovered from all customers on a fully rolled-in basis.

5. There is pending before the Congress energy legislation which will affect the pricing, priority of service, and availability of natural gas. It is anticipated that this legislation will be enacted before the summer season of 1978.

6. The natural gas utilities derive no profit from the purchase and sale of emergency gas as only the excess cost of such gas is recovered from the customers of the utilities without mark-up or return upon such purchases or revenues.

7. In order to serve the Priorities 1 and 2 markets during the winter season with a reasonably minimal possibility of curtailing service to the essential "firm" industrial markets in Priority 2, it is necessary that the natural gas utilities be allowed to purchase, and recover the excess cost of, sufficient quantities of emergency gas to serve these markets on a design or colder than normal weather basis.

8. CF Industries, Inc., a Priority 2.7 customer of North Carolina Natural Gas Corporation, has stated in this proceeding that it does not desire that any emergency gas be purchased to maintain service to it during the winter season.

9. Purchases of emergency gas for service during the winter period afford certain protection to the Priority 1 markets of each natural gas utility as such emergency purchases add to the total gas supply available to meet extraordinary weather conditions or reductions in flowing gas supplies during the course of the winter by the State's sole supplier of natural gas. Such purchases also provide peak day protection against loss of service during periods when storage gas cannot be withdrawn in quantities necessary to meet the full demands on such days. The extent to which industrial, commercial and residential customers, respectively, benefit from purchases of emergency gas is related to, but not determined by, the priorities for serving such customers and cannot be quantified precisely.

10. In addition to the direct impact of curtailment on all gas customers, the shortage of gas for industrial uses

adversely affects the economy of the State through higher prices for alternate fuels and loss of jobs in the event of plant closings.

11. That Piedmont's allocation of 71% of its gas supply to North Carolina and 29% to South Carolina is not consistent with the present allocations of gas to Piedmont under Transco's FPC allocations, and must be reviewed to achieve harmony in the allocations between Piedmont's North Carolina and South Carolina customers.

Whereupon the Commission reaches the following

CONCLUSIONS

1. The impact of deep curtailments of contract volumes of natural gas service to the North Carolina natural gas utilities, which will require curtailment of service to customers in Priority 2, creates an emergency for the winter season November 1, 1977, to March 31, 1978, which requires the gas utilities to purchase emergency gas in order to maintain service to residential and essential commercial and industrial markets.

2. The industrial markets to be served are high priority markets requiring gas service for process uses with no alternative fuel capability or only propane standby. The maintenance of production and employment in these plants is necessary to the economic well-being of the State and its citizens.

3. Each of the natural gas utilities should be authorized to purchase emergency gas for this winter season in quantities sufficient to serve their Priority 1 and Priority 2 markets (except for service to those customers in Priority 2.7 who have elected not to receive service this season), such quantities to be calculated by each utility using its design weather basis. In the case of Piedmont Natural Gas Company, Inc., such purchases should assume the allocation of 71% of Piedmont's conventional sources of supply to North Carolina. The approval of purchase of E gas volumes based on allocation of 71% of Piedmont's gas supply to North Carolina is without prejudice to further Orders, investigations and proceedings to determine the adequacy of Piedmont's gas supply to North Carolina and to order such remedies and relief as may be necessary to achieve equitable allocation of Piedmont's gas supply between its North Carolina customers and its South Carolina customers.

4. The excess cost of the emergency gas should be prorated by a formula giving weight to the benefits which the respective classes of customers may receive from the purchase of the emergency gas. The residential customers should be charged only 50% of the surcharge assigned to industrial customers, for the reason that the priority plan assigns them first priority on the CD gas supply and they would not need emergency gas during a normal winter. If the

weather goes colder than 10% below normal as it did last winter, they will need emergency gas and since the priority plan assigns them first priority on the emergency gas, equity requires that they bear a portion of the cost of this gas. Commercial customers should pay 75% of the surcharge imposed on industrial customers, as the weighting assigned to their relative benefits and protection afforded to them from the safeguard attributable to purchasing the emergency gas. The industrial customers should be assigned the 100% surcharge weighting because of their likelihood of receiving the emergency gas, even though it is subject to the prior claim of residential and commercial customers. The Commission further concludes that equity requires that the benefits from the application of the emergency gas supplies to the volume variation formula (VVAF or CTA) should be assigned on the same proportionate basis to the customer classes, respectively, who pay for the emergency gas. The increases will be offset to a considerable degree by the decreases in the volume adjustment (CTA) formula, and all customers will be impacted in the least manner possible consistent with the overall need for emergency gas to meet the system demands in case of another extremely cold winter.

5. The excess cost of the emergency gas for the winter season shall be collected by a surcharge applicable to all customers receiving service during the winter period on the following basis: each utility shall calculate surcharges such that the surcharge to residential customers is one-half that to industrial customers and the surcharge to commercial customers is three-fourths that to industrial customers. Benefits derived from the application of the volumetric variation adjustment formula (VVAF) or curtailment tracking adjustment rate (CTA) resulting from the additional volume shall be apportioned to each customer class (residential, commercial and industrial) on the basis of the percentage relationship that the cost of emergency gas assigned to each customer class bears to the total cost of such emergency gas. Each of the gas utilities (except Pennsylvania and Southern and United Cities, who will purchase no emergency gas during the 1977-78 winter heating season) shall file revised tariffs, effective November 1, 1977, reflecting the above adjustments for the period ending March 31, 1978, subject to a true-up or revision for any changes in said rates based upon changes in the amount of CD volumes supplied by Transco.

IT IS, THEREFORE, ORDERED as follows:

1. That North Carolina Natural Gas Corporation, Piedmont Natural Gas Company, Inc., and Public Service Company of North Carolina, Inc., are hereby authorized to purchase sufficient quantities of emergency gas to serve their Priorities 1 and 2 markets according to each company's respective design winter weather (except for Priority 2.7 in the case of North Carolina Natural Gas Corporation) in addition to regular sources of supply during the 1977-78 heating season.

2. That the utilities named above shall file revised tariffs effective November 1, 1977, to recover the excess cost of such emergency gas and to reflect the reduction in the CTA rates resulting from purchase of these additional volumes.

(a) That the emergency gas surcharge shall be calculated such that the surcharge to residential customers is one-half (1/2) of the surcharge to industrial customers and the surcharge to commercial customers is three-fourths (3/4) of that to industrial customers.

(b) That the emergency gas surcharge rate per MCF to be billed customers of Public Service Company of North Carolina, Incorporated, based upon winter season volumes of approximately 17,483,904 MCF and an excess cost of emergency gas of approximately $2,538,758, shall be as follows:

Residential	$.10994
Commercial	.16492
Industrial	.21989

(c) That the emergency gas surcharge rate per MCF to be billed customers of Piedmont Natural Gas Company, Incorporated, based upon winter season volumes of approximately 18,447,238 MCF and an excess cost of emergency gas of approximately $3,266,820, shall be as follows:

Residential	$.13631
Commercial	.20446
Industrial	.27261

(d) That the emergency gas surcharge rate per MCF to be billed customers of North Carolina Natural Gas Corporation based upon winter season volumes of approximately 10,523,774 MCF and an excess cost of emergency gas of approximately $2,694,344, shall be as follows:

Residential	$.18413
Commercial	.27619
Industrial	.36826

(e) That the total dollar amount of the benefits derived from application of the volumetric variation adjustment formula (VVAF) or curtailment tracking adjustment rate (CTA) resulting from purchase of the emergency gas volumes shall be apportioned to each customer class (residential, commercial and industrial) on the basis of the percentage relationship that the cost of emergency gas assigned to each customer class bears to the total cost of such emergency gas.

(f) That each utility shall file with the Chief Clerk of the Commission a calculation of its CTA rates reflecting apportionment of the benefits derived from application of the volumetric variation adjustment formula (VVAF) or curtailment tracking adjustment rate (CTA) resulting from

purchase of the emergency gas volumes as set forth in paragraph (e) above.

ISSUED BY ORDER OF THE COMMISSION.
This 25th day of October, 1977.

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

Deane, Commissioner, not participating.
Hipp, Commissioner, abstaining.

DOCKET NO. G-100, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Amendment of Rule R6 to eliminate	) ORDER APPROVING
duplication of provisions of	) AMENDMENTS TO
safety requirements	) RULE R6 NATURAL GAS

BY THE COMMISSION: In March, 1970, the Commission amended Rule R6-39 by incorporating the minimum federal safety standards as prescribed in 49 CFR Part 192, except where North Carolina law exceeds or is more stringent than the standards adopted in the above-mentioned federal regulations. This incorporation has resulted in the duplication of some provisions of Rule R6.

The Commission is of the opinion that the provisions of the following rules are covered in Rule R6-39(b).

Present Rule

R6-5 (6)	R6-31
R6-5 (7)	R6-42
R6-5 (13)	R6-43
R6-21 (1)	R6-44
and (8)	R6-45
	R6-46

IT IS, THEREFORE, ORDERED THAT:

(1) Rule R6 Natural Gas, be, and hereby is, amended as follows:

(a) R6-5 (6), (7), and (13), be deleted in their entirety and subparagraphs (8), (9), (10), (11), and (12) be renumbered (6), (7), (8), (9), and (10) respectively.
(b) R6-21 (1) be deleted and the entirety replaced with the words, "(1) The ASME Guide for Gas Piping Systems - Appendix G-K (Leakage Classification)."
(c) R6-21 (8) be deleted in its entirety.
(d) R6-31 be deleted in its entirety.

(e) R6-42 be deleted in its entirety.
(f) R6-43 be deleted in its entirety.
(g) R6-44 be deleted in its entirety.
(h) R6-45 be deleted in its entirety.
(i) R6-46 be deleted in its entirety.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of October, 1977.

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

DOCKET NO. P-100, SUB 32
DOCKET NO. P-100, SUB 42

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of Carolina Telephone and Telegraph Company for an Investigation of the Intrastate Toll Rate of Return or Settlement Ratio and for an Increase in Intrastate Toll Rates If Appropriate	) ORDER MODIFYING) ORDER INSTITUTING) INVESTIGATION INTO) INTRASTATE TOLL) RATES AND CHARGES

BY THE COMMISSION: On March 10, 1977 the Commission issued in Docket Nos. P-100, Sub 32 and P-100, Sub 42 "Order Instituting Investigation Into Intrastate Toll Rates and Charges".

The Commission Staff has received requests from several of the telephone companies for clarification of the March 10, 1977 order and Appendix A attached thereto. The Commission has reviewed the various requests received and believes that certain modifications and corrections should be made to the March 10, 1977 order and the Appendix A attached thereto. Specifically the Commission concludes that ordering Paragraphs 6 and 9; Appendix A, General Instructions, Page 1 and 3; Appendix A, Data Request and Schedules 1-1a, 1-1b, 1-2, 1-3a, 1-4, 1-7, 1-8, 2, 2-3, 2-4, 2-5, 3, 3-3, 4, and 4-2. Changes in Appendix A have been underscored with broken lines to make the modifications in the attached revised pages and schedules readily apparent.

IT IS, THEREFORE, ORDERED:

1. That ordering Paragraph No. 6 is hereby amended by deleting the last two sentences from that paragraph and adding the following four sentences:

   Each company shall file with the Commission 28 copies of its response to Appendix A except for Item 1(b). Each company shall file with the Commission 6 copies of Item 1(b) as modified by this order. Each company shall also furnish a copy of its response to Appendix A except for Item 1(b) to the other parties of

record. Item 1(b) as modified by this order shall be provided to the other parties of record upon request.

2. That ordering Paragraph No. 9 is modified in Line 3 by deleting August 9, 1977 and adding August 5, 1977.

3. That Appendix A be modified by adding the revised pages and schedules attached to this order and deleting therefrom the comparable pages and schedules of Appendix A as originally issued.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of March, 1977.

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

NOTE: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 34
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 Authority to Adjust Its Intrastate Telephone Rates and Charges and Investigation of Intrastate Toll Rates and Charges of All Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission	) ORDER APPROVING PROCEDURES FOR FINALIZING INTRASTATE TOLL SETTLEMENTS WITHIN A QUARTERLY TIME FRAME; TERMINATING THE SUBMISSION OF JOINT REPORTS; AND REQUIRING THE FILING OF QUARTERLY DATA

BY THE COMMISSION: On December 19, 1975, the Commission issued in these combined dockets, Docket No. P-55, Sub 742 and Docket No. P-100, Sub 34, its Order Granting Increase In Intrastate Toll Rates and Charges and Other Related Toll Items For All Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission which ordered among other things the following as stated in Ordering Paragraph Number 6.:

"6. That Southern Bell and the connecting companies settling on a cost basis shall coordinate their efforts to finalize intrastate toll settlements for each quarterly or monthly period within 90 days of the end of such period. Joint reports shall be submitted every 60 days relating the detailed progress of their joint effort."

This requirement was made recognizing that the settlement procedure between Southern Bell and most of the connecting telephone companies settling on a cost basis leaves much to

be desired in that the time interval between when the toll service is rendered and when the toll settlements are finalized is entirely too long.

In compliance with this requirement set forth in Ordering Paragraph Number 6., Southern Bell has submitted every 60 days beginning February 12, 1976, joint reports on behalf of Southern Bell and the connecting telephone companies settling on a cost basis relating the detailed progress of their joint effort in this matter.

The Fifth Joint Report dated October 8, 1976, reported the culmination of this joint effort into proposed procedures agreed to by all companies settling on a cost basis that would provide for meeting the intent of the requirement set forth in Ordering Paragraph Number 6. These procedures were proposed to be adopted as the basis for conducting intrastate toll settlements (also applicable to interstate toll settlements) beginning January 1, 1977.

Attached to the Fifth Joint Report were details of the general procedures and data forms to be used for finalizing settlements within a quarterly time frame. Some of the connecting companies do not plan to use these procedures precisely since they will be generating toll settlement data in more detail and in some cases with greater frequency than required by these procedures. This appears to present no problem since, in principle, as long as the generation of the required minimum amount of toll settlement data is made within the maximum quarterly time frame by all companies settling on a cost basis, then the requirement set forth in Ordering Paragraph Number 6. will be fulfilled.

After reviewing the proposed procedures as outlined in the Fifth Joint Report to be adopted for finalizing intrastate toll settlements (also applicable to interstate toll settlements) within a quarterly time frame, the Commission concludes that conducting toll settlements using these procedures constitutes compliance by all companies settling on a cost basis with the Commission's intent set forth in Ordering Paragraph Number 6. The Commission further concludes that the submission of the joint reports required by Ordering Paragraph Number 6. should be terminated and that all companies regulated by the North Carolina Utilities Commission including Southern Bell settling on a cost basis should file with the Commission the quarterly toll settlement data requested by the forms attached to this order as Appendix A. Finally, the Commission concludes that all connecting telephone companies under the Commission's jurisdiction settling on a standard contract (nationwide average schedules) basis should file on a quarterly period basis copies of each of the three monthly period toll settlement summaries (Form 4188) comprising that quarterly period.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the procedures proposed in response to Ordering Paragraph Number 6. for finalizing intrastate toll settlements (also applicable to interstate toll settlements) within a quarterly time frame are, hereby, approved for conducting toll settlements beginning January 1, 1977, for all telephone companies settling on a cost basis.

2. That the submission of the joint reports required by the same Ordering Paragraph Number 6. is, hereby, terminated commencing with the joint report due April, 1977.

3. That Southern Bell and all connecting telephone companies under the jurisdiction of the North Carolina Utilities Commission settling on a cost basis shall file three (3) copies of the quarterly toll settlement data requested by the forms attached to this order as Appendix A within 45 days of the close of the quarterly period.

4. That all connecting telephone companies under the jurisdiction of the North Carolina Utilities Commission settling on a standard contract (nationwide average schedules) basis shall file on a quarterly period basis within 45 days of the close of the quarterly period three (3) copies of Form 4188 giving the toll settlement summary for each of the three monthly periods comprising the quarterly period beginning with the December, 1976 - January, 1977, monthly period.

5. That Southern Bell shall file three (3) copies of the requested quarterly toll settlement data for all connecting telephone companies not under the jurisdiction of the North Carolina Utilities Commission settling on both a cost basis and a standard contract (nationwide average schedules) basis.

6. That the information required to be filed by Southern Bell according to Ordering Paragraphs Number 7. and 8. of the order issued December 19, 1975, in Docket Nos. P-55, Sub 742 and P-100, Sub 34 shall continue to be filed as specified until further notice.

7. That a copy of this order together with Appendix A shall be sent to all telephone companies under the jurisdiction of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of March, 1977.

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

NOTE: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 34
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 Authority to Adjust Its Intrastate Telephone Rates and Charges and Investigation of Intrastate Toll Rates and Charges of All Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission	ORDER CLARIFYING THE REQUIREMENT FOR FILING OF QUARTERLY DATA

BY THE COMMISSION: The Commission issued its Order Approving Procedures for Finalizing Intrastate Toll Settlements Within a Quarterly Time Frame; Terminating the Submission of Joint Reports; and Requiring the Filing of Quarterly Data in these combined dockets, Docket No. P-55, Sub 742 and Docket No. P-100, Sub 34 on March 11, 1977. The intent of the portion of this Order requiring the filing of quarterly data was to provide a means for all telephone companies under the jurisdiction of the North Carolina Utilities Commission to file appropriate toll settlement data with the Commission on a systematic basis.

Several problems have been encountered regarding the filing of this data. These problems arise primarily due to the different time schedules that exist among the connecting companies settling on a cost basis for making cost separations studies and concluding toll settlements.

The Commission is of the opinion that its Order issued March 11, 1977, in these dockets should be modified in order to clarify the procedures to be used by all telephone companies under the jurisdiction of the Commission for filing appropriate toll settlement data with the Commission on a systematic basis.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the last paragraph on page 2 prior to the ordering paragraphs of the Order issued March 11, 1977, in these combined dockets be modified to read as follows:

> "After reviewing the proposed procedures as outlined in the Fifth Joint Report to be adopted for effecting intrastate toll settlements (also applicable to interstate toll settlements) between Southern Bell and certain connecting cost companies within a quarterly time frame, the Commission concludes that conducting toll settlements using these procedures constitutes compliance with the Commission's intent set forth in Ordering Paragraph Number 6. The Commission further concludes that the submission of the joint reports required by Ordering Paragraph Number 6. should be terminated and that all telephone companies under the Commission's jurisdiction should file with the

Commission appropriate toll settlement data on a systematic basis."

2. That the Ordering Paragraphs Numbers 1. through 7. of the Order issued March 11, 1977, in these combined dockets be rescinded and replaced in their entirety by the following Ordering Paragraphs Numbers 1. through 10.:

1. That the procedures proposed in response to Ordering Paragraph Number 6. effecting intrastate toll settlements (also applicable to interstate toll settlements) within a quarterly time frame are, hereby, approved for conducting toll settlements beginning January 1, 1977 for those telephone companies settling on a cost basis that will be utilizing these procedures exactly.

2. That the submission of the joint reports required by the same Ordering Paragraph Number 6. is, hereby, terminated commencing with the joint report due April, 1977.

3. That all connecting telephone companies under the jurisdiction of the North Carolina Utilities Commission using the exact procedures approved herein for settling on a cost basis with Southern Bell using the quarterly toll settlement data forms for message toll and WATS data (marked QCS-1, QCS-2 and QCS-3) and attached as Appendix A to this Order shall file four (4) copies of these completed forms with the Commission within 45 days of the close of the quarterly period. These companies shall also file with the Commission using the same data forms four (4) copies of the final settlement data for an appropriate four quarters study period at the time final approval with Southern Bell has been concluded.

4. That all other cost companies including Southern Bell under the jurisdiction of the North Carolina Utilities Commission, not using the exact procedures approved herein, shall file with the Commission four (4) copies of settlement data using the format of the data forms attached as Appendix A to this Order at the time that such data has been determined to be final for a study period consistent with each company's present study period for concluding toll settlements.

5. That at the time a cost company that is presently subject to the data requirement specified in the above Ordering Paragraph Number 3. becomes subject to the data requirement specified in the above Ordering Paragraph Number 4., the company shall so notify the Commission in writing sixty (60) days prior to the expected change in filing the data explaining the basis for the change.

6. That upon receipt of this Order, data shall be filed with the Commission by cost companies including Southern Bell consistent with the requirements in the above appropriate Ordering Paragraphs Numbers 3. or 4. during

the balance of calendar year 1977, which balance period will be treated as an adjustment period for resolving any problems by any or all cost companies that may be necessary in order to meet these requirements and to insure the uninterrupted systematic filing of the requested settlement data beginning January 1, 1978. Prior to January 1, 1978, the Commission will provide additional forms as part of Appendix A for filing toll private line settlement data.

7. That all connecting telephone companies under the jurisdiction of the North Carolina Utilities Commission settling on a standard contract (nationwide average schedules) basis shall file on a quarterly period basis within 45 days of the close of the quarterly period four (4) copies of the toll settlement summary forms for each of the three monthly periods comprising the quarterly period beginning with the December, 1976 - January, 1977 monthly period. For the exchanges of those companies not under the jurisdiction of the North Carolina Utilities Commission, it will be the responsibility of the regulated companies preparing these settlement summary forms to file four (4) copies of this data.

8. That Southern Bell shall file four (4) copies of the requested appropriate toll settlement data for all connecting telephone companies settling on a cost basis not under the jurisdiction of the North Carolina Utilities Commission.

9. That the information required to be filed by Southern Bell according to Ordering Paragraphs Numbers 7. and 8. of the Order issued December 19, 1975, in Docket Nos. P-55, Sub 742 and P-100, Sub 34 shall continue to be filed as specified until further notice.

10. That a copy of this Order together with Appendix A shall be sent to all telephone companies under the jurisdiction of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of May, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

NOTE: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Directory Assistance) ORDER RELATING TO PREVIOUS APPROVAL
Charges) OF DIRECTORY ASSISTANCE CHARGE PLANS

BY THE COMMISSION: On October 24, 1975 the Commission by Order in Docket No. P-7, Sub 601 approved a charge for directory assistance for Carolina Telephone and Telegraph Company effective January 15, 1976. On December 19, 1975 by Order in Docket No. P-55, Sub 742, Southern Bell Telephone and Telegraph Company was also authorized to make a charge for this service starting on January 15, 1976. Subsequent to the issuing of the above-mentioned Orders, additional clarifying orders have been issued in each docket. Also other companies have been authorized to charge for the directory assistance service.

Originally, The Carolina authority did not provide for a toll directory inquiry credit for each home area toll call as did Bell's authority. In the Bell Order the Commission expressed its intent (page 48) to allow the companies to gain operating experience with the two different plans and when sufficient data was available to evaluate the merits of both plans and consider a D.A. charging plan for all regulated telephone companies in North Carolina. As approval was granted to other telephone companies to make a charge for directory assistance, the plan as authorized for Southern Bell was the one authorized. As experience with directory assistance charges was gained, Carolina Telephone and Telegraph Company by a tariff filing requested to change its plan to the one approved for Bell, which the Commission approved effective November 1, 1976. This action, in effect, concluded the Commission's consideration of the two different plans but held open consideration of a D.A. charge for all other North Carolina regulated telephone companies.

Now, with a year's experience with directory assistance charging, which for Bell alone provided $3,501,473 (the Commission estimate being $3,270,752) that was not required in the 1975 rate case to be put on other services, the Commission believes that the time is at hand to further consider D.A. charges for all of the remaining telephone companies under its jurisdiction, which the Commission will later do in Companion Orders.

A further issue involved with directory assistance charges is the exemption of the charge for the blind or physically handicapped to the extent they are unable to use the telephone directory. The Commission does not believe this provision should be altered at this time.

In consideration of the foregoing and all other information available in the Commission's files, the Commission Orders as Follows:

(1) That the directory assistance charge plan as now authorized for other companies under the Commission's jurisdiction be implemented as a statewide plan for all other North Carolina regulated telephone companies, said action to be taken in companion Orders.

(2) That no change shall be made in the blind or physically handicapped to the extent they are unable to use the telephone directory exemption at this time.

(3) That a copy of this Order be sent to all of the telephone companies under the Commission's jurisdiction.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of April, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Jean H. Pearson, Deputy Clerk

NOTE: Clerical error described in Order issued April 7, 1977, incorporated in the above Order.

DOCKET NO. P-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Establishing Directory Assistance	) ORDER ESTABLISHING
Charges for Barnardsville Mountain	) DIRECTORY ASSISTANCE
Telephone Company	) CHARGES

BY THE COMMISSION: By Order of April 6, 1977 in this docket the Commission ordered that the directory assistance charge plan as authorized for companies under the Commission jurisdiction should be implemented by the remaining regulated telephone companies as a statewide uniform plan, said action to be taken in pending rate case Orders or in Companion Orders, this being one of the latter.

On July 22, 1976 the Commission requested data from Barnardsville regarding the effect that directory assistance charges had already had on the Company and might have if a charge was to be made for said service by Barnardsville. From the Company's reply of August 17, 1976, and other information available the following appears to be pertinent.

The Company has gained approximately $873 annually from the change in the Operator Office Agreement with Southern Bell as the result of a reduction from 28¢ to 10.5¢ per main station effective January 16, 1976 because of Bell's charging for directory assistance, and a 10¢ charge per directory assistance, an item that previously had been included in the 28¢ charge. A 1976 sampling of these calls indicate a total for 1976 of 2,360. The Operator Office Agreement without D.A. Charging for 1976 was $948 whereas if D.A. Charging has been in effect, with an anticipated reduction of 50% in calling it would have been $783 or a difference of $165 plus new revenue of $57 from estimated billable calls or $222.

The Commission is of the opinion that it is in the best overall interest of the North Carolina telephone operations

that all telephone companies under its jurisdiction charge for directory assistance under a uniform plan. It is likewise the Commission's opinion that the dollar benefit resulting from directory assistance charges should be used to reduce other rates or charges.

IT IS, THEREFORE, ORDERED as follows:

(1) That Barnardsville Telephone Company shall within 62 days of this Order, and after filing an appropriate tariff, begin charging for directory assistance in accordance with Appendix "A" attached subject to protest and hearing 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 Barnardsville shall within 30 days after directory assistance charges become effective mail as a bill insert its 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 Barnardsville shall place in its telephone directories the directory information included in Appendix "B" relative to directory assistance charges.

(2) That Barnardsville shall flow through the directory assistance benefits or $222 by filing revised tariffs by May 1, 1977, effective June 1, 1977 to eliminate color charges.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of April, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Joan H. Pearson, Deputy Clerk

NOTE: For Appendices A and B, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Establishing Directory Assistance Charges for North State Telephone Company	) ORDER ESTABLISHING) DIRECTORY ASSISTANCE) CHARGES

BY THE COMMISSION: By Order of April 6, 1977 in this docket the Commission ordered that the directory assistance charge plan as authorized for companies under the Commission's jurisdiction should be implemented by the remaining regulated telephone companies as a statewide

uniform plan, said action to be taken in pending rate case orders or in Companion Orders, this being one of the latter.

On July 22, 1976 the Commission requested data from North State regarding the number of directory assistance calls made during the first six months of 1976, the effect on expenses if a directory assistance charge had been in effect during the period and the total net effect on revenue requirements. From the Company's reply of September 22, 1976 the following appears to be pertinent.

The Company reported that based on a one month study period 1,846,195 directory assistance calls would have been handled annually. That under an estimated 60% reduction in calls if directory assistance had been in effect, there would have been an estimated reduction in expenses of $34,087 and $35,447 of revenue for a total of $69,534 of revenue requirement. The latter figure compares to a 50% and a 70% reduction of $54,667 and $84,400 respectively. The Company contends that a 50% reduction would be more realistic than a higher reduction primarily because of the publicity already given to the subject in the area.

The Commission is of the opinion that it is in the best overall interest of the North Carolina telephone operations that all telephone companies under its jurisdiction charge for directory assistance under a uniform plan. It is likewise the Commission's opinion that the dollar benefits resulting from directory assistance charges should be used to reduce other rates or charges, and that an estimated 50% reduction in calls is reasonable. Further that the benefits should flow through to the subscribers outside of the base rate area by means of zone rate reductions. North State has the highest rural zone rates in the state and the lowest basic rates of any major telephone company. For example, under current rates and charges a four-party residence subscriber in the Randleman exchange in rural zone 3 would pay a $2.30 basic rate and $5.70 zone charge. In the High Point exchange a one-party residential subscriber would pay a $4.50 basic rate and $9.00 zone charge.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That North State Telephone Company shall within 62 days of this Order, and after filing an appropriate tariff, begin charging for directory assistance in accordance with Appendix "A" attached subject to protest and hearing 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 North State 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 North State shall place in its telephone directory the directory information included in Appendix "B" related to directory assistance charges.

(2) That North State shall flow through to the subscribers by means of reduced charges the directory assistance benefits of $54,667 by filing revised tariffs on or before May 1, 1977, effective June 1, 1977 to reduce rural zone charges on an overall percentage basis after making a flat zone charge, two and one half miles and beyond, from the base rate area to use up the remaining money with supporting calculation to explain the revenue reductions.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of April, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Joan H. Pearson, Deputy Clerk

NOTE: For Appendices A and B, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Establishing Directory Assistance	) ORDER ESTABLISHING
Charges for United Telephone Company of	) DIRECTORY
the Carolinas, Inc.	) ASSISTANCE CHARGES

BY THE COMMISSION: By Order of April 6, 1977 in this Docket, the Commission ordered that the directory assistance charge plan as authorized for companies under the Commission's jurisdiction should be implemented by the remaining regulated telephone companies as a statewide uniform plan, said action to be taken in pending rate case orders or in Companion Orders, this being one of the latter.

On July 22, 1976 the Commission requested data from United regarding the number of directory assistance calls made during the first six months of 1976, the effect on expenses if a directory assistance charge had been in effect during the period and the total net effect on revenue requirements. The information did not provide a clear answer to United's operations.

United's situation is unique as it relates to directory assistance charges. United has two information centers of its own, one located at Southern Pines and one at Siler City. The Southern Pines center serves six United exchanges

plus the Aberdeen exchange of the Sandhill Telephone Company and the Pinebluff exchange of the North Carolina Telephone Company. The Siler City center serves four United exchanges and Bennett, Coleridge and High Falls of the Randolph Telephone Membership Corporation. In addition, United has four exchanges homing on Southern Bell. The Operator Office Agreements within the United Company have not been revised to recognize directory assistance charging. The agreements with Southern Bell have been revised. The effect of directory assistance charge plans implemented by near by Companies on the United Company operations is difficult to determine.

In seeking a fair and reasonable revenue requirements effect that directory assistance charges might have on United, the Commission has looked to the North State Telephone Company Order in this Docket. The DAC effect on North State with an estimated reduction of 50% in calling is 7¢ per main station and equivalents. This figure applied to United's 1976 year end main stations and equivalents of 32,872 amounts to $23,339.

The Commission concludes that if directory assistance charges are applied to United's exchanges and the other exchanges homing on United's information centers, and if the Operator Office Agreements are updated in accordance with the Bell revision, that the $23,339 is a reasonable estimate of the DAC revenue requirement effect on United.

IT IS, THEREFORE, ORDERED as follows:

(1) That United Telephone Company Of The Carolinas, Inc., shall within 62 days of this Order, and after filing an appropriate tariff, begin charging for directory assistance in accordance with Appendix "A" attached subject to protest and hearing and after the NOTICE attached as Appendix "B" is given to its subscribers as a bill insert or direct mailing with 15 or more days before directory assistance charges become effective. That United shall within 30 days after directory assistance charges become effective mail as a bill insert its 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 United shall place in its telephone directories the directory information included in Appendix "B" relative to directory assistance charges.

(2) That United shall flow through the directory assistance benefit by filing revised tariffs by May 1, 1977, effective June 1, 1977 to reduce main stations and equivalents by 10¢ per month on business and 5¢ on residence.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of April, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Joan H. Pearson, Deputy Clerk

NOTE: For Appendices A and B, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-100, SUB 41

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Changes in Tariff Relating to Service Observing Equipment Provided by Telephone Utilities Operating in North Carolina	) ORDER ADOPTING CHANGES IN SERVICE OBSERVING EQUIPMENT TARIFFS

BY THE COMMISSION: On December 28, 1976, the Commission issued an Order Approving Satisfaction of Complaint in Docket No. P-55, Sub 761. That docket arose from a complaint proceeding initiated by the Attorney General against Southern Bell Telephone and Telegraph Company (Southern Bell) in which the Attorney General asked the Commission to prohibit the company from offering telephone monitoring devices to its customers or, in the alternative, that the Commission adopt standards governing the use of monitoring equipment.

In response to the Complaint by the Attorney General, Southern Bell, on December 8, 1976, filed its "Satisfaction of Complaint" with the Commission. In that document, Southern Bell stated that while it believed that all of its subscribers to service observing equipment use it under the terms set forth in the tariffs, it would agree to the following additional terms and conditions as a further protection for the public:

(a) Each telephone station subject to observation will have a label affixed to it stating the possibility of service observing.

(b) A reference symbol will be placed in the directory to signify that a particular subscriber uses service observing equipment, and a notice to that effect will be placed at the front of the directory. This is to be phased in with the publication of each new directory.

(c) In addition to the letter of compliance now requested on a one-time only basis as a prerequisite of service, each service observing subscriber will be required to sign a letter of compliance at least once a year on a continuing basis. These letters will be made available to the Commission for its inspection.

(d) A list of service observing customers will be sent to the Commission each year. Likewise, such a list will be available in each primary district office maintained by the Company.

The Attorney General agreed to these additional terms and conditions, and they were incorporated into the Commission's Order of December 28, 1976. Simultaneously with the issuance of that Order, and believing that similar conditions should be adopted for the other telephone utilities in North Carolina, the Commission issued an Order Giving Notice of Intention to Adopt Service Observing Equipment Standards for all telephone utilities operating in this State. In that Order, the Commission asked that all parties having an interest in the adoption of such standards file comments or objections to same by January 13, 1977, and that any party desiring a public hearing file a request for such hearing by that same date.

Comments on the proposed standards were filed by Carolina Telephone and Telegraph Company (Carolina) and objections were filed by Piedmont Aviation, Inc. No request for public hearing was received.

Carolina stated that it has no objection to the proposed standard but that it intended to file a tariff seeking to recover any increase costs occasioned by adoption of standards from customers with service observing equipment.

In its objections to the proposed standards, Piedmont objected on various grounds which may be summarized as follows:

(1) The standard is burdensome on business organizations and will not curb the abuses suspected by the Attorney General. Piedmont supports its position by noting that monitoring equipment can be purchased from companies not regulated by the Commission and suggests that the procedures merely let a potential customer know that his call may be monitored and do not make the invasions of privacy illegal.

(2) The proposed standards may place Piedmont at a competitive disadvantage with other airline companies based outside the State of North Carolina. Piedmont expresses concern that they may be required to note the use of service observing equipment when other airlines may not.

(3) Piedmont expresses concern that the procedure does not require the utility to publish in the phone book an explanatory notice relating to the use of the reference symbol. Piedmont prefers that such notice indicate that the equipment is used by the company to check its own service standards regarding the adequacy of information that is provided and the courteous professional manner of the response.

Upon consideration of the record in this docket, the Comments and Objections filed by Carolina and Piedmont and by taking judicial notice of the Commission's decision in Docket No. P-55, Sub 761 (Attorney General v. Southern Bell), the Commission is of the opinion that the proposed standards are reasonable and should be made applicable to all telephone utilities operating in North Carolina and subject to the jurisdiction of this Commission.

In reaching its conclusions, the Commission reviewed and considered thoroughly the objections raised by Piedmont. While it may be true that the standards impose some slight burden on the affected businesses, the Commission believes that any such burden is minimal when compared to the potential abuses which will be eliminated by adoption of the standards.

Additionally, the Commission does not feel that the adoption of the standards will place Piedmont at a competitive disadvantage with other companies operating in this State. Even if a competitive disadvantage does exist it would also be slight when compared to the beneficial effects the standards will have.

Like Piedmont, the Commission believes that businesses have a legitimate need for service observing equipment and that those businesses using such equipment do so for legitimate purposes. At the same time, the Commission agrees with Piedmont that the use of a reference mark in the phone directory could connote, at least to some, that the practice is somehow insidious. To help alleviate this problem, the Commission believes, as Piedmont suggests, that an explanatory notice should be included at the front of the telephone directory. Accordingly, the Commission concludes that, in addition to the conditions set forth on page one, the following language should be included at the front of the telephone directory to explain the reference symbol:

> Service observing equipment is furnished to the subscriber solely for the purpose of determining the need for training or improving the quality of service rendered by his employees in the handling of telephone calls to or from the subscriber of an impersonal business nature.

The Commission is aware that there may be customers who provide their own equipment under the interconnect rules of the Federal Communications Commission and that such equipment may have service observing features. In North Carolina Utilities Commission, et al. v. Federal Communications Commission, filed December 13, 1976, the United States Supreme Court held that this Commission has no jurisdiction over matters involving interconnect companies. Therefore, the Commission concludes that it cannot, at this time, impose standards on customer owned service observing equipment. At the same time, it is apparent that the same potential for abuse exists with customer owned equipment provided by interconnect companies as with the equipment

supplied by public utilities regulated by this Commission. Accordingly, the Commission is hopeful that interconnect companies and customers who own their own equipment will choose to adopt the proposed standards voluntarily or that the General Assembly will consider the feasibility of passing legislation making such standards applicable to such equipment.

IT IS, THEREFORE, ORDERED as follows:

(1) The standards for service observing equipment set forth in Appendix "A" attached hereto be and the same is hereby adopted and made applicable to all telephone utilities operating in this State and subject to the jurisdiction of this Commission.

(2) The explanatory notice included on page four of this Order be published in the front of all telephone directories to explain any reference work which might be included with the individual listing.

(3) All telephone utilities providing service observing equipment or prior to providing such equipment if it is not now provided, shall file tariffs necessary to effectuate the terms of this Order as soon as practical.

(4) This docket be closed.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of March, 1977.

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

APPENDIX "A"

STANDARDS TO BE INCORPORATED INTO TARIFFS
RELATING TO SERVICE OBSERVING EQUIPMENT

(a) Each telephone station subject to observation will have a label affixed to it stating the possibility of service observing.

(b) A reference symbol will be placed in the directory to signify that a particular subscriber uses service observing equipment, and a notice to that effect will be placed at the front of the directory. This is to be phased in with the publication of each new directory.

(c) In addition to the letter of compliance now requested on a one-time only basis as a prerequisite of service, each service observing subscriber will be required to sign a letter of compliance at least once a year on a continuing basis. These letters will be made available to the Commission for its inspection.

(d) A list of service observing customers will be sent to the Commission each year. Likewise, such a list will be available in each primary district office maintained by the Company.

(e) The following language will be included at the front of the telephone directory to explain the reference symbol referred to in item (b) above:

> Service observing equipment is furnished to the subscriber solely for the purpose of determining the need for training or improving the quality of service rendered by his employees in the handling of telephone calls to or from the subscriber of an impersonal business nature.

This is to be phased in with the publication of each new directory.

DOCKET NO. P-100, SUB 46

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Tariff Changes Related to the	) ORDER REQUIRING TARIFF
Interconnection and Registration	) FILINGS AND ALLOWING
Program of the Federal	) TARIFFS TO BECOME EFFEC-
Communications Commission	) TIVE ON FIVE DAYS'
	) NOTICE

BY THE COMMISSION: In a public notice issued on October 17, 1977 with regard to its connection and registration program, the Federal Communications Commission stated that "For all equipment other than PBX and key telephone systems (i.e., main and extension telephones, and data and ancillary equipment), the program is, in all respects, effective immediately."

There are currently on file with this Commission tariffs which require modification to enable North Carolina telephone companies to respond to the FCC program. It is the Commission's opinion that initial tariff changes responsive to the FCC program should be filed immediately and that the filed tariffs should be allowed to become effective on short notice. The Commission concludes that such tariff filings which implement changes related to the FCC terminal equipment interconnection and registration program, should be allowed to become effective on five days' notice, with such tariffs subject to formal complaint and hearing and subject to investigation and recommendation of the Public Staff.

IT IS, THEREFORE, ORDERED as follows:

1. That all telephone companies immediately file tariffs to implement changes related to the Federal Communications Commission's interconnection and registration program.

2. That filings made in response to this Order which implement changes related to the FCC interconnection and registration program are hereby allowed to become effective on five days' notice subject to formal complaint and hearing and subject to investigation and recommendation of the Public Staff.

3. That a copy of this order be mailed to all regulated telephone companies in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.
This the 31st day of October, 1977.

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

DOCKET NO. E-2, SUB 241

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power and Light Company for Certificate of Public Convenience and Necessity, Pursuant to G.S. 62-110.1, Authorizing Construction of the Mayo Creek Generating Plant in Person County, 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 February 17, 1977

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Barbara A. Simpson, and Ben E. Roney

APPEARANCES:

For the Applicant:

Richard E. Jones, Carolyn S. Parlato, Attorneys at Law, Carolina Power and Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

For the Commission Staff:

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

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 12, 1974, Carolina Power and Light Company (CP&L or Company) filed with this Commission preliminary plans for siting and construction of electric generation and related transmission facilities for the then proposed Person County Generating Facility as required by NCUC Rule R8-42. Construction subsequently was delayed and on July 17, 1976, the Company submitted a revised filing for its proposed Mayo Electric Generating Plant in Person County under Rule R8-42. On December 13, 1976, pursuant to G.S. 62-110.1, the Company filed an application for a Certificate of Public Convenience and Necessity to construct additional generating capacity as set forth in the application. By Order of the Commission issued December 21, 1976, a Notice of Public Hearing was issued herein, which was published as required by statute. No complaints or written protests to the granting of the Application of Carolina Power and Light Company for a Certificate of Public Convenience and Necessity to construct the proposed Mayo Creek Generating Plant in Person County were filed within the time specified in such notice.

On February 17, 1977, pursuant to G.S. 62-82, a hearing was held on the application. Testimony on behalf of the Applicant was presented by Mr. Wilson W. Morgan, Vice President and Manager of System Planning and Coordination and by Mr. Patrick W. Howe, Vice President and Manager of Technical Services. Mr. Dennis J. Nightingale, Utilities Engineer in the Electrical Section of the Engineering Division, testified for the Commission Staff.

Based on the testimony at Hearing, the Commission's Order and Report in Docket No. E-22, Sub 100, and the record as a whole, the Commission makes the following

FINDINGS OF FACT

(1) The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 336 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in this State and subject to the jurisdiction of this Commission.

(2) The most probable future rate of growth in peak load for the Company during the period 1977-1986 will be 6.86% annually.

(3) Without construction of new generating base load facility, CP&L will have unacceptable reserve margins beginning as early as 1981, using the Company's, the Staff's or the Commission's capacity and load forecasts.

(4) Reliable capacity, in the amount which the Mayo Units could supply, cannot be secured through agreements with

neighboring utilities or through other arrangements of firm purchases for the life of the Mayo Units.

(5) Due to the long lead time to construct and license nuclear facilities and Federal Energy Administration policy prohibiting new oil fired electric generation, coal fired steam generation is the most economical and only feasible means of supplying needed base load capacity in the 1981-1985 time period.

(6) The projected cost of the Mayo Creek facility including related transmission facilities is $920,000,000, or about $642 per Kw for Unit 1 and $488 per Kw for Unit 2 which compares favorably to the costs sited as typical for similar plants in the mid-1980's. The Commission believes the projected capital costs to be reasonable.

(7) A long-term supply of low sulfur coal adequate to meet sulfur dioxide emission standards has been secured at a cost of 10.4 mills (1975 dollars) per kilowatt hour which is slightly below the Staff's estimate for the mid-1980's and which the Commission believes is reasonable.

(8) The proposed Mayo units are of the same size and incorporate similar design features of other units on the Company's system and are designed to provide reliable service and to have a high availability factor.

(9) The plant is designed to comply with the most stringent of existing regulations pertaining to the discharge of pollutants to the waters of Mayo Creek and to emissions to the atmosphere and comply with applicable requirements for protection of the environment.

(10) The Mayo site is well-suited for construction and desirable due to its proximity to existing transmission facilities and load centers and its proximity to the Norfolk and Western Railroad which can provide unit trains for the contracted fuel supply for the plant. In addition, the site is located in a rural area away from population centers and other sources of pollution, and the site has no particularly important agricultural, aesthetic, wildlife or recreational significance.

(11) Construction of the Mayo units is consistent with the Commission's plan for expansion of electric generating capacity.

Based on the foregoing Findings of Fact, the Commission's Order and Report in Docket No. E-100, Sub 22, and the record as a whole, the Commission makes the following

CONCLUSIONS

The public convenience and necessity require that the construction of the Mayo Creek generating units be completed at the earliest date possible in order to (a) supply the

additional generating capacity to meet the estimated increased requirements of the Company's customers in the early 1980's, as found by the Commission in Docket No. E-100, Sub 22, (b) provide the most economical and dependable type of generating capacity which the company can complete in time to meet the projected load growth, and (c) maintain adequate and dependable electric service for its customers.

IT IS, THEREFORE, ORDERED that:

(1) A Certificate of Public Convenience and Necessity be, and the same is hereby, granted to Carolina Power and Light Company for the construction of the Mayo Steam Electric Generating Plant, consisting of two 720 MW coal-fired steam generating units having a combined output of 1,440 megawatts, to be located in Person County, North Carolina.

(2) During January of each year, beginning in 1978, the Company shall furnish the Commission with a progress report, which shall provide information upon which the Commission may evaluate the current status of the construction, the cost of said facility, and the date that the Company anticipates said facility, or any part thereof, might become operational for the generation of electricity.

(3) This Order constitutes a Certificate of Public Convenience and Necessity for the construction of said facility.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of March, 1977.

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

DOCKET NO. E-7, SUB 166

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Power Company for a Certificate of Public Convenience and Necessity under Chapter 287, 1965 Session Laws of North Carolina (G.S. 62-110.1), Authorizing Construction of New Generating Capacity (Perkins Nuclear Station) Near the Yadkin River in Davie County, 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 October 1, 2, 3, 7, 8, 9 and 10, 1975, January 27 and 28, 1976, and February 17-18, 1977

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., William L. Porter, Charles S. Carter, Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28242

For the Intervenors:

William G. Pfefferkorn, Jr., Attorney at Law, 2124 Wachovia Building, Winston-Salem, North Carolina 27101
For: High Rock Lake Association, Inc.; Yadkin River Committee, The Consumers' Center of North Carolina, Inc. through their members, for themselves, David Springer, The Point Farm, Mocksville, North Carolina 27028, For: Himself

For the Using and Consuming Public:

Jesse C. Brake, John R. B. Matthis, North Carolina Attorney General's Office, Justice Building, P. O. Box 620, Raleigh, North Carolina 27609

For the North Carolina Environmental Management Commission:

Rufus L. Edmisten, Attorney General, W. A. Raney, Jr., Special Deputy Attorney General, 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 Wike, Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 991 - Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding was instituted on May 3, 1974, by the filing of the original siting plan by Duke Power Company (Duke or Applicant) followed on July 16, 1975, by the filing of an Application for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct a new generating facility on a site near the Yadkin River in Davie County, North Carolina, and a revised siting plan for the subject facility. By Order of the Commission dated July 30, 1975, Notice of the Application was required to be published in a newspaper of general circulation in Davie

County, and the Commission, on its own motion, set public hearing on the Application to commence on October 1, 1975, in the Commission Hearing Room, Raleigh, North Carolina. The Order further stated that Duke would have the burden of proof to support its Application by testimony of qualified witnesses, together with exhibits and data, and to establish for the record through competent testimony and evidence justification for the proposed plant from economic, power supply requirements, reliability, and environmental viewpoints.

Under the Application for a Certificate of Public Convenience and Necessity, Duke proposes to construct three nuclear-fueled steam-electric generating units, each with a nominal net rating of 1,280 megawatts. The proposed Perkins Nuclear Station is a part of Duke's Project 81. Project 81 consists of six identical 1,280 megawatt nuclear-fueled generating units. The six units will be on two sites - one in North Carolina (Perkins Nuclear Station) and one in South Carolina (Cherokee Nuclear Station). Duke's subsequent testimony was that 1984 is the on-line date for the first unit of Project 81, with subsequent units to follow at yearly intervals, and that construction on the first unit of Project 81 must begin in the summer of 1976. The Application provides that the waste heat from the condensers will be dissipated through a closed-cycle system of wet mechanical draft cooling towers. Make-up water for the cooling towers will be pumped from the Yadkin River.

On July 22, 1975, the Attorney General of North Carolina filed Notice of Intervention on behalf of the using and consuming public. An Order Recognizing intervention of Attorney General was issued by the Commission on July 23, 1975.

On September 17, 1975, Notice of Intervention was filed by David Springer, representing himself, and an Order Allowing Intervention was issued by the Commission on September 19, 1975.

On September 18, 1975, Petitions to Intervene were filed by the Consumers' Center of North Carolina, Inc., and the Yadkin River Committee. An Order Allowing Intervention was issued by the Commission on September 23, 1975.

On September 19, 1975, Petition to Intervene was filed by the High Rock Lake Association, Inc., and on September 19, 1975, an Order Allowing Intervention was issued by the Commission.

Public hearings were held on October 1, 2, 3, 7, 8, 9 and 10, 1975, on January 27, and 28, 1976, and on February 17, and 18, 1977. Counsel for all parties appeared and participated as shown previously. The Applicant offered testimony and exhibits of its witnesses, Mr. Franz W. Beyer, Vice President, System Planning; Mr. William S. Lee, Senior Vice President, Engineering and Construction; Mr. L. C.

Dail, Chief Engineer, Civil and Environmental Division, Design Engineering Department; and Mr. Frank A. Jenkins, Vice President, Transmission and Electric Installations. The Attorney General offered the testimony of Ms. Mona F. Potts, Route 2, Box 214, Advance, North Carolina, in opposition to the granting of a Certificate of Public Convenience and Necessity. Mr. Ronald Vogler, County Manager of Davie County, offered a statement on behalf of the Davie County Board of Commissioners in support of the granting of the certificate. The High Rock Lake Association, Inc., offered testimony of its Chairman of the Board, Mr. William G. Pfefferkorn, Sr., in opposition to the granting of a Certificate. The Yadkin River Committee and the Consumers' Center of North Carolina, Inc., offered the testimony and exhibits of Mr. Jesse L. Riley, 854 Henley Place, Charlotte, North Carolina, in opposition to the granting of a Certificate. The Utilities Commission Staff through the cooperation of the North Carolina Department of Natural and Economic Resources (NCDNER) and the North Carolina Department of Human Resources (NCDHR) offered the testimony and exhibits of Dr. Thomas S. Elleman, Professor and Head of the Nuclear Engineering Department, North Carolina State University, Raleigh, North Carolina; Mr. William F. Irish, Economist, North Carolina Utilities Commission; Mr. Albert R. Calloway, Assistant Director, Division of Community Assistance, NCDNER: Mr. Robert E. Leak, Director of the Division of Economic Development, NCDNER: Mr. Dan E. McDonald, Assistant Director, Division of Resource Planning and Evaluation, NCDNER: Mr. L. P. Benton, Jr., Head of Field Services Branch, Division of Environmental Management, NCDNER: and Mr. Dayne H. Brown, Head of Radiation Protection Branch, Division of Facility Services, NCDHR.

On September 19, 1975, the Commission issued Order Giving Notice of Intent to Reschedule Hearing based on the fact that Duke was reviewing its load forecast at that time and might revise the forecast based on actual 1975 experience. The Order deferred the preparation of Commission Staff testimony until the filing of any new forecast and specified that, upon the completion of the hearing scheduled to commence in October, the hearing would be recessed pending the filing of the further data and further order of the Commission.

On November 14, 1975, Duke filed revised load growth forecasts with the Commission. The Commission, on November 17, 1975, issued Order Scheduling Resumption of Public Hearing to consider the effects of the revised load growth forecasts and the Commission Staff's testimony. The resumed hearing was set for January 27, 1976, in the Commission Hearing Room, Ruffin Building, Raleigh, North Carolina. By Order Correcting Error issued November 28, 1975, the Commission corrected the scheduled time of the hearing which was incorrectly stated in the Order of November 17, 1975.

On December 11, 1975, the Commission issued Order Setting Oral Arguments at the Close of Hearing in Lieu of Briefs. This Order stated that all parties would be afforded an opportunity to present oral arguments in lieu of proposed Findings of Fact, Conclusions of Law, and briefs, and directed all parties to be prepared to present such oral arguments immediately upon the conclusions of the presentation of evidence.

On January 16, 1976, Mr. David Springer filed a Motion requesting permission to present additional evidence at the reconvened hearing on January 27, 1976. By letter dated January 19, 1976, Mr. Springer filed certain affidavits and appendices.

On January 16, 1976, the Commission issued Order Denying Mr. David Springer's Motion to Introduce Evidence Beyond the Scope of Reconvened Hearing on January 27, 1976. The Commission stated that the evidence described in Mr. Springer's Motion was beyond the scope of the reconvened hearing and that extensive evidence had been introduced at the previous hearings on these matters, and denied the Motion of Mr. Springer.

On January 22, 1976, Dr. Miles Oakley Bidwell, Assistant Professor of Economics at Wake Forest University, filed rebuttal testimony in response to supplemental testimony of Applicant's witnesses, F. W. Beyer and William S. Lee. A certificate of service accompanying this testimony was signed by Thomas S. Erwin, Attorney for Yadkin River Committee.

By date of January 23, 1976, Mr. David Springer filed Motion to Introduce Documents Published by Government During and Following Hearing Recessed on October 10, 1975. In the Motion, Mr. Springer sought permission to introduce into the record of this proceeding certain attached documents as exhibits.

On January 23, 1976, the Attorney General filed a Motion for continuance and further evidentiary hearing. Several Motions were taken under advisement by the Commission during the hearings and oral argument. All such motions are deemed to have been ruled upon, consistent with the Commission's decision set forth below.

There were two late-filed Requests for Judicial Notice by the Attorney General of North Carolina on February 20, 1976, and by Mr. David Springer, Intervenor, on February 24, 1976. The Attorney General requests the Commission to take judicial notice of the preliminary prospectus dated February 12, 1976, in which the proceeding General Atomic Company v. Duke Power Company, et al. is outlined. The Commission takes judicial notice of this preliminary prospectus. Mr. Springer requests the Commission to take judicial notice of an internal memorandum of the Department of Natural and Economic Resources forwarded on to the U.S. Nuclear

Regulatory Commission (NRC) for its consideration. The Commission also takes judicial notice of this document.

At the conclusion of the public hearing on January 28, 1976, the Commission recessed the hearing to be resumed upon further Order of the Commission for the principal purpose of considering the results of pending proceedings before the North Carolina Environmental Management Commission regarding the use of water from the Yadkin River for the Perkins Plant, and the Commission's separate and independent analysis of future requirements for electric service in North Carolina as required under G.S. 62-110.1, upon its completion.

On December 29, 1976, Rufus L. Edmisten, Attorney General of North Carolina, on behalf of the North Carolina Environmental Management Commission, filed a Request for Judicial Notice of Resolution No. 66-41 of said Commission entitled "RESOLUTION STATING THE COMMISSION'S POSITION CONCERNING WITHDRAWAL AND USE OF WATER FROM YADKIN RIVER FOR OPERATION OF PROPOSED PERKINS NUCLEAR STATION," and requesting that the Utilities Commission consider the same in making its decision in the Perkins proceeding. The Commission set the resumed public hearing to be held in the Commission Hearing Room beginning February 17, 1977. By order of the Chairman of the Commission, Commissioner W. Scott Harvey was appointed to the panel hearing the proceeding to take the place of former Chairman Marvin R. Wooten, who had resigned from the Commission, and to whose position Commissioner Harvey had been duly appointed.

At the call of the proceeding, the Commission allowed the Attorney General's Motion to take Judicial Notice of Resolution No. 76-41 of the Environmental Management Commission.

The Commission Staff offered the testimony of Dennis J. Nightingale, Utilities Engineer, updating all of the Staff findings on the use of electricity in North Carolina and forecasting the need for electricity in the future, and including the Staff Report of the investigation and analysis and estimation of need for future generation capacity for North Carolina. The Commission received into evidence by reference to its official records the Commission's 1977 Report of Analysis and Plan: Future Requirements for Electric Service to North Carolina, issued February 16, 1977, by Order of the Commission in Docket No. E-100, Sub 22, Investigation, Analysis and Estimation of Future Growth in the Use of Electricity and the Need for Future Generating Capacity for North Carolina.

Duke offered the supplemental testimony of Franz W. Beyer and William Lee, updating all data and records of Duke for the consumption of electricity in Duke's service area, and provided updated cost estimates of the construction of pertinent portions of the Perkins Nuclear Plant. The Yadkin River Association offered the supplemental testimony of Dr.

Miles Bidwell on the projected use of electric power in North Carolina. The following public witnesses made statements in opposition to the proposed Perkins Plant: Dr. Isabel Bittenger, M.D., Kelley Eares, Jack Asburn, Hugh E. Whitted, III, and Mary Davis. The Commission allowed the motion of David Springer to take judicial notice of the record in Docket No. E-100, Sub 22, Load Forecast case.

The Commission heard oral argument from all parties on February 18, 1977 in lieu of briefs.

Based upon the evidence presented at the hearing the Commission makes the following

FINDINGS OF FACT

1. That Duke Power Company is a corporation organized and existing under the laws of the State of North Carolina, and is a public utility operating in North and South Carolina where it is engaged in the business of generating, transmitting, distributing and selling electric power and energy.

2. That Duke Power Company has properly made application to this Commission for a certificate as required prior to commencement of construction of new generating capacity (Perkins Nuclear Station) and related transmission facilities. That all required notices have been given and the necessary parties were present or had the opportunity to be present at the public hearings, including members of the public who desired to appear. That duly noticed times were set for public hearings; that hearings were held on October 1, 2, 3, 7, 8, 9, 10, 1975, January 27 and 28, 1976 and February 17 and 18, 1977; and that Applicant, Staff, Intervenors and members of the public presented their views concerning the subject Application. That a record was made of the hearings, testimony and cross-examination.

3. That based on the evidence of future need for electric power in the Duke Power Company service area, and the Commission's own independent analysis of future requirements for electricity service to North Carolina, made under G.S. 62-110.1, and considering the possibility of available purchase power and pooling agreements, public convenience and necessity requires that Duke construct an additional 3,840 MW of electric capacity over certified capacity for operation between 1985 and 1989.

4. That the proposed site for the Perkins Nuclear Generating Station is, considering the public convenience and necessity and the alternative sites available, the most appropriate.

5. That the proposed Perkins Nuclear Station is, considering the public convenience and necessity and the alternative types of generation available, the most appropriate, and the Commission approves the estimated

construction cost of $3,343,388,000 and finds that such construction will be consistent with the Commission's plan for the expansion of electric generating capacity.

6. That the proposed cooling facilities at the Perkins Nuclear Station are, considering the public convenience and necessity, the most appropriate.

7. That the proposed Perkins Nuclear Generating Station is in view of the economic and social needs and the public convenience and necessity, the most appropriate.

8. That the proposed Perkins Nuclear Generating Station is, considering the public convenience and necessity and the total environmental impact, the most appropriate.

9. That the record as developed by the parties to this proceeding is substantial and sufficiently adequate for the Commission to rely upon to make its decision.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Mr. Beyer testified that his responsibilities included the planning of all generation, transmission and distribution facilities necessary for supply of the future demand for electricity in the Duke service area. Mr. Beyer further testified that the demand for power increased at a rapid rate during the period 1970-1973, but in 1974 decreased by approximately 2 percent from 1973, and that, in his opinion, the decrease was due to the combined effects of the energy crisis and the downturn in the economy.

Under cross-examination, Mr. Beyer indicated that on January 6, 1976, its customers used 172.8 million kilowatt-hours in a 24-hour period. The previous high was 167.4 million kilowatt-hours used on August 26, 1975. Another new level of 176.8 million kilowatt-hours was reached on January 19, 1976. Additionally, Duke also registered a record for maximum peak load when the system reached 8,598 MW at 9:00 a.m., Monday, January 19, 1976.

In Mr. Beyer's prefiled testimony, dated January 21, 1977, Duke had attained a new peak of 9,486 MW on January 17, 1977. This is a 10.3% increase over Duke's previous peak load. Included in this testimony was Beyer Exhibit 1 dated 2/17/77 which showed Duke's planned construction schedule from 1981 through 1990. Mr. Beyer stated that the capacity additions scheduled to go in service on the Duke system constitute the addition of eight large nuclear units in a nine-year period, and the scheduled in-service dates of those units are critical to meeting the minimum reserve. The in-service dates for the units currently scheduled represent the optimum use of the available resources, and any significant change in scheduling could result in cost increases or possible failure to meet load requirements. While it is feasible to slow down construction should actual peak loads prove to be below the forecast, there is no way

that construction of these units could be accelerated should the peak loads emerge higher than those forecast.

In the October 1975 hearings, Mr. Irish testified for the Commission Staff that he is a member of the Commission Peak Load Forecast Task Force which is (1) reviewing and analyzing the peak load forecasts and methodologies of the three power companies operating in North Carolina, and (2) will make an independent peak load forecast for each of the companies as required by G.S. 62-110.1 of the North Carolina General Assembly; that he has studied Duke's forecast and methodology and considers it to be a serious and exhaustive effort to give the best forecast possible under the present circumstances.

Under cross-examination, Mr. Irish testified that any predictions as to future conditions involve judgment and historical experience; that he expects Duke's base load to recover to its previous level and probably exceed that in the future; that he did not have any expectations with respect to specific electrical usage for the textile industry and the industrial base load overall; and that he cannot presently judge whether the decrease in KWH sales to the textile industry is structural or merely due to the recession.

Mr. L. C. Dail indicated in his testimony for Duke that the delay of one year for operation of the first unit of Project 81, as described by Mr. Boyer (January 1976 testimony), did not allow a corresponding one-year delay in start of construction. Because of the projected low reserves Duke must bring the first unit of Project 81 into service in 1984. A new evaluation of construction time for Project 81 has resulted in the development of alternative construction schedules to insure the availability of the first unit of Project 81 in 1984. Alternative 1 requires the construction of Perkins to commence in September of 1976 and Cherokee in August of 1977. Alternative 2 (the current construction schedule) would reverse this sequence with Cherokee in August of 1976 and Perkins in September of 1977. Mr. Dail concluded that this certificate remains as an urgent item in the programming of Project 81 in order for Duke to proceed with planning, construction and operation in an efficient manner.

Mr. Dennis J. Nightingale, Utilities Engineer, North Carolina Utilities Commission, testified in the January 1976 hearings, that he had reviewed the need for the capacity associated with the Perkins Nuclear Station utilizing "percent reserves" and "loss of load probability" (LOLP). He concluded that delaying each Perkins unit one year has a significant effect on the loss of load probability and reserve margins. For the February 1977 hearings, Mr. Nightingale submitted prefiled testimony based upon the Staff's analysis Duke needs at least 1200 MW of new capacity to be constructed each year (1984-1990) to satisfy a 15 percent summer reserve margin criteria.

Mr. Nightingale, in his prefiled testimony, dated January 7, 1977, testified that in view of the almost 100% coincidence of system peaks in the Virginia - Carolina Subregion (VACAR) SERC, most major intertie help will probably be from outside the VACAR subregion. Mr. Nightingale showed in DJN Exhibit No. 6, that VACAR projects a considerable drop in its reserves after the Summer of 1982, and that the Southern subregion shows a similar decrease in reserves after the Summer of 1985. He also indicated that the Tennessee Valley Authority projected high summer reserves through 1985, however, there was no data available beyond 1985.

In February of 1977, the North Carolina Utilities Commission published its "Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina". The report shows a 6.90% growth in peak load for Duke between 1976-1986 and a 6.65% growth between 1986-1990. Using the Commission's reserve criteria of 15% in the summer and 20% in the winter, additional base load generating capacity that has not been certified of over 1200 MW is required for the winters of 1985, 1987 and 1989.

The Yadkin River Committee and Consumers' Center of North Carolina, Inc., presented the testimony of Mr. Jesse L. Riley, 854 Henley Place, Charlotte, North Carolina, at the January 1976 hearings with respect to load growth forecasting. Mr. Riley testified that during the 1960's, usage of electrical power grew at a steady rate of approximately 8 percent per year; that Duke's increase in generating capacity did not keep pace with this rate of growth, resulting in shortfalls and near shortfalls; that during the 1960's and early 1970's Duke's predictions of future demand were accurate to within 5 percent of five-year projections and +-1/2 percent for one-year projections; and that in recent times Duke's predictions have been frequently revised downward, only to have actually experienced growth at a lesser rate than was predicted. Mr. Riley stated that although the growth in load declined from the summer of 1973 to the summer of 1974, Duke's forecasters are predicting the recurrence of historical growth rates for the future.

Mr. Riley further testified that Duke treats the recent anomalies in load growth as being temporary aberrations, irrelevant to the long-term trend; that Duke has not factored these anomalies into its long-term forecast; that beginning in 1971, Duke's forecast for the year 1982 has been declining by approximately 1,000 MW per year; and concluded that these circumstances indicate that there is more at work than a mere short-term economic fluctuation. Mr. Riley stated that Duke's approach to forecasting is archaic and irrational; that he has developed an econometric projection of future load growth based on a perceived inverse relationship between the constant dollar cost of electricity and the demand for electricity; that since 1971 the constant dollar cost of electricity has increased, accompanied by a corresponding proportionate decrease in the

rate of growth of consumption; and that his analysis has established a negative elasticity coefficient based on analysis of Duke's revenue versus base load consumption.

Mr. Riley drew the following conclusions based on his analysis: (a) that growth of peak and base is sensitive to general economic conditions; (b) average rate of growth of peak for Duke has been declining since the late 1960's; (c) the slowdown in growth has been most pronounced in Duke's lead category, RA; (d) that growth rates of temperature responsive components of load paralleled general economic conditions; (e) the growth rate of the base component of load leveled off in 1968 and 1969, and declined sharply thereafter; (f) a downturn in the growth of KWH sales in 1969-1970 coincided with the increasing constant dollar cost of electricity; and (g) saturation is being approached in residential air conditioning. Mr. Riley further testified that the Federal Energy Administration's "Project Independence Report" warns that future electricity requirements are subject to a number of uncertainties, including the future prices and availability of alternative fuels, differential rates of growth for peak demand and overall consumption, peak pricing, and lessened efficiency of new large plants; that FEA expressed concern regarding the new large plants; that FEA expressed concern regarding the ability of the electric industry to finance necessary expansion; that FEA concedes the existence of a negative price elasticity for electrical demand, although the agency does not agree with Mr. Riley's assessment of the quantum of that effect; and that Duke has experienced a strong decrease in growth.

He further stated that even if Duke's projections are accurate and the project does not come on line as proposed by Duke, all that will be lacking will be reserve capacity; that if demand exceeds capacity, shortages would be for only brief periods, and Duke could then reapply for a Certificate; that many alternatives are available prior to any real risk of a shortage.

Mr. Riley also stated that Duke has failed to establish that it is financially qualified to build Perkins; that Duke is dependent for its revenues upon the decisions of several public utility commissions; that raising capital by the sale of debt or equity in the future will be difficult; and that Duke's construction program will require excessive rate relief which the Commission will be unable to grant.

Under cross-examination, Mr. Riley testified that he had participated in several previous Duke nuclear projects and rate cases; that his forecast of the peak load for the winter of 1975-1976 will be approximately 8,000 MW; that his characterization of the year 1975 as a "no-growth year" is incorrect with respect to growth in peak demand; that his prediction of a peak load of 6,200 MW for the year 1982 is probably an over-prediction; that in prior testimony before the Utilities Commission and in the Catawba proceeding

before the Nuclear Regulatory Commission, he had predicted a 1982 peak load of 8,000-9,000 MW; that the difference in the two forecasts for the year 1982 was based on "conservatism" with the intent of preserving credibility; that he considered Duke to be a well-managed company until Duke started its program of construction of nuclear plants; that he considers the risks of building nuclear plants to be intolerable; that he considers the generation of electricity by means of nuclear power not to be cheaper than generation with fossil fuels; that he feels Duke should rely on fossil fuel plants and solar power for its future generating needs.

Following the testimony of Intervenor's Witness Riley, Mr. Beyer offered further testimony. Mr. Beyer testified that historically the base load portion of Duke's load has been much more responsive to economic conditions than the weather-responsive portion of the load; that in constant dollars the increase in Duke's rates for the average customer has been 38 percent from 1971 to July, 1975; that Duke's compound rate of growth of sales from 1970-1973 was 8.6 percent and 5.7 percent from 1970-1974; that the Southeastern Electric Reliability Council is not an electric power marketing agency, and therefore, has no power to sell; that while the Tennessee Valley Authority is a winter peaking system, TVA has a seasonal diversity exchange with some power companies in the southwest to sell their excess summer capacity; that Duke used a modified exponential form which results in a declining growth rate in the future; and that Duke is not building capacity into its construction program to allow Duke to be a seller to companies outside its service area in the 1980's, since building capacity to meet the needs of its service is about all the Company can do.

Dr. Miles Oakley Bidwell, Assistant Professor of Economics, Wake Forest University, at the January 1976 hearing, presented a series of five equations to represent mathematically the parameters affecting the use of electricity. He stated that he had made studies of the behavior of Duke Power customers over the last twenty years and found the major factors affecting usage to be per capita income, the price of electricity, the price of substitute energy sources, and the price of electrical appliances. Mathematical correlation with these parameters was established by assigning estimated coefficients to the multiple regression equations.

Dr. Bidwell concluded that depending on what happens to per capita income over the next ten years and depending on the amount of price increase of electricity, it is quite possible there will be no increase in the total demand. Also, under a different pricing system, under which the demand for electricity were more evenly spread out, it would be possible for Duke Power to double the amount of electricity they presently generate without building any new capacity whatsoever.

Under cross-examination, Dr. Bidwell testified that he had not previously performed a forecast for a utility nor did he consider his testimony in this proceeding to be a forecast. He further indicated that his hypothesis had not been verified by actual experience. He indicated that the parameters and judgment utilized in his hypothesis could affect the results. Dr. Bidwell concluded that he was not making a forecast as to peak demand but was attempting to develop an analysis that would reflect current changes in the pattern of electric energy usage.

In the February 1977 hearing, Dr. Bidwell testified that he felt a 5% growth in residential demand was unreasonable and that use depends on whether a customer bases his decision on average cost or marginal cost. He further stated that he was opposed to nuclear power.

The Commission finds from the evidence that during the period 1970-1973 the demand for power increased at a rapid rate but in 1974 decreased by approximately 2 percent from 1973. The peak load experienced in the winter of 1976 was 9,486 MW topping the 1975 peak by about 10.3 percent. The Commission finds reasonable Duke's contention that the decrease in 1974 and the percentage increase in 1975 were due to the combined effects of the energy crisis and the downturn in the economy.

Duke is making an effort to utilize lower reserves based on overriding considerations involving the efficient management and allocation of its resources during the decade of the 1980's. These considerations are mandatory as they affect the ultimate cost to the consuming public. The Commission finds that in its Staff's analysis and in its own independent analysis, large base load generating capacity is required on an annual basis in Duke's service territory.

The Commission finds that Duke Power Company is a member of the Virginia - Carolinas Subregion (VACAR) of SERC. That there is almost a 100% coincidence of system peaks in the VACAR subregion and that VACAR projects a considerable decrease in reserve margins after the Summer of 1982. It also finds that neighboring areas show similar trends in reserve margins. The Commission concludes that Duke will be unable to purchase power from neighboring areas in amounts equal to the proposed Perkins facility for its expected service life.

The Commission concludes that beyond question there exists a need for increased electric generation in the Duke Power Service area. Public Convenience and Necessity mandates that the Perkins and subsequent plants be constructed as scheduled by Duke. The peak load forecasts developed by Duke and the Commission were not brought seriously into question and, thus, provide competent and substantial evidence upon which the Commission can rely.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Mr. Dail testified concerning the proposed Perkins Nuclear Station site location, ecological studies, engineering studies, water use evaluations, permits and licenses required, and environmental impact assessment. The site of the station is in Davie County, North Carolina, on the Yadkin River, approximately ten miles north of Salisbury, 17 miles southwest of Winston-Salem, and seven miles southeast of Mocksville, North Carolina.

Studies to determine the suitability of the Perkins site for a nuclear station included extensive research, data collection, evaluation, and prediction in the fields of hydrology, meteorology, ecology, geology, seismology, and demography. Operation of the station will require an average water consumption of 82 cfs from the Yadkin River. This 82 cfs is about 2.9 percent of the average annual yield at the Yadkin College gage (stream flow) and is compatible with present and projected future water uses in the Yadkin River Basin.

In summary, Mr. Dail concluded that early site studies clearly showed the Perkins site to be suitable; subsequent detailed environmental and engineering investigations on site have confirmed site suitability; an independent assessment by the Nuclear Regulatory Commission as described in its Final Environmental Statement has also confirmed site suitability; and Duke has a high probability of securing the remaining federal, state, and local agency licenses and permits.

Mr. Frank A. Jenkins described the transmission system of Duke and its interconnections with adjoining companies. He pointed out that the proposed Perkins Station is in close proximity to a major network of 230 kV transmission lines as demonstrated by the Revised Siting Plan, Perkins Nuclear Station, which was placed in evidence. He further indicated that guidelines in publications of the United States Department of the Interior, United States Department of Agriculture, and the Federal Power Commission were followed in selecting transmission rights-of-way. The transmission lines necessary to integrate the output of Perkins Nuclear Station in the Duke transmission system were described in detail.

Mr. Steven Charles Sink, Route 1, Box 23, Linwood, North Carolina, indicated that he was a member of a Committee for High Rock Lake formed for the purpose of identifying problems in High Rock Lake and finding solutions to those problems. He asked the Commission to thoroughly consider the effect that Perkins Nuclear Station might have on High Rock Lake.

Mr. Jimmy W. Phillips, County Manager for Davidson County, indicated that he was not opposed to the building of Perkins Nuclear Station but was opposed to the use of the Yadkin

River. He further indicated that Davidson County was the fourth fastest growing county in North Carolina and that the effect of Perkins Nuclear Station's use of the Yadkin River should be thoroughly analyzed.

Mr. Samuel Kelly Eanes, Route 2, Box 595, Dobson, North Carolina, asked the Commission to carefully consider the potentially harmful impact that Perkins Nuclear Station would have on the Yadkin River and the Yadkin River Valley.

In the February 1977 hearing, Mr. William L. Lee, under cross-examination, testified that moving the Perkins Nuclear Station to another site at this time would delay the commercial operation of this facility for approximately four (4) years. He also stated that such alternate sites at Lake Norman or in South Carolina were unacceptable because of uncertainty in lake cooling regulations (Lake Norman) and the additional transmission costs (South Carolina) to get the energy to load centers.

The Commission concludes that selection of this site and mode of generation was based on its proximity to the load center and existing transmission systems, availability of sufficient condenser cooling water, minimum relocation of people and access facilities and suitable foundation material and, therefore, serves the interest of system economy. The addition of the capacity of this station to the system will greatly enhance the system reliability by providing needed capacity and reserves.

The Commission further concludes that construction of the proposed station will require additional transmission lines to transmit the station electrical output into the Duke transmission system, and, based on available technology, the construction of transmission additions, as shown in Duke's Application, is the best alternative for transmitting electric energy from this station, considering economics, environmental acceptability and system reliability.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Mr. W. L. Lee in the January 1976 hearing, testified that alternatives to the proposed station which were considered included purchased energy, upgrading older plants, base load operation of peaking units, and other types of generation. He further detailed the site-plan alternatives for Project 81 and concluded that Perkins Nuclear Station as a part of Project 81 was the best alternative, economically and environmentally, to provide the electric generating capability necessary to meet the projected load in the 1980's.

Mr. Lee concluded that, on the basis of extensive studies of future growth, economics, environmental factors, and the regulatory situation, generation from Project 81 was necessary to meet the public need for electricity in the 1980's. Further, the lowest cost of electricity to the

consumer could be provided if Project 81 consisted of nuclear units when compared to any other alternative generation available in technology today.

In the February 1977 hearing, Mr. Lee presented the analysis of two viable alternatives for base-load generation which were coal-fired and nuclear-fueled. Duke's analyses of these two alternatives demonstrated a large economic advantage for nuclear-fueled units. This economic advantage of nuclear generation over coal-fired generation is relatively insensitive to variations in capacity factor (40 and 100 percent) or assumed future inflation in the cost of fuel. It was shown that for the estimated cost of fuel, a nuclear plant is more economical than the fossil alternative for all station capacity factors above 40 percent. Postulating the cost of nuclear fuel to be 125 percent of the estimated cost and the fossil fuel costs to be as low as 75 percent of the estimated cost, the nuclear alternative has an economic advantage over the fossil generation. Further, the studies indicate that the nuclear alternative still has the economic advantage if nuclear fuel costs double and coal costs remain the same.

Mr. Dennis J. Nightingale testified that the Staff, in analyzing which types of new facilities should be constructed, collected data from the local utilities, Federal Energy Administration, Federal Power Commission, Energy Research and Development Administration, Electric Power Research Institute, the Edison Electric Institute and the Nuclear Regulatory Commission. With this data base, a series of cost comparisons were performed to determine the sensitivity of the results to data inputs. The cost comparisons between a nuclear and a low sulfur coal unit included (1) assumption of accurate capital cost estimates, (2) assumption of accurate fuel cost and operating and maintenance costs estimates, (3) varying assumptions on hours of operation and capacity factor relationships for economic operation of different plant types, (4) assumption of 50 and 100 percent increases in nuclear fuel costs, and (5) a total lifetime cost comparison of plant types assuming a 5.5% inflation rate for fuel costs. Using the Staff's best estimated for future costs, nuclear facilities demonstrated a definite economic advantage over low sulfur coal facilities.

The NCUC's "Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina" indicates that for Duke Power Company base load nuclear generating facilities are the most economical to construct and will optimize Duke's generation mix. The report also indicates that such other generating types: solar, wind, geothermal, ocean are not expected to be available in sufficient quantities or at costs comparable to nuclear generating facilities in the near future.

Dr. Thomas S. Elleman, Professor and Head of the Nuclear Engineering Department, North Carolina State University,

Raleigh, North Carolina, appeared on behalf of the Staff. Dr. Elleman testified that his remarks pertain to reactor safety in general and not to any specific plant; that he believes that it is necessary for the country to accelerate the construction of nuclear power plants for the generation of electricity; that a strong national and state commitment to nuclear energy is required to successfully add the needed component of nuclear power to our national resources; that he regards conservation of energy as a necessary component of our energy transition, not as an alternative; that nuclear power is coming under increasing attack from a variety of environmental groups and individuals, which has led some to conclude that the old ways of generating electricity are the best, but he believes this to be the wrong approach; that all present methods of generation of electricity involve some risks; and that we must weigh the risks against the benefits provided by any energy source. Dr. Elleman further testified that he believes nuclear power can and does provide cheaper electricity with more protection to the public and the environment than any alternative energy source available today and that the safety record of the nuclear industry is unparalleled.

Dr. Elleman summarized his reasons for believing nuclear power to be both a necessary and desirable energy source for the future generation of electricity as follows: in spite of higher capital costs of nuclear power plants compared with conventional plants, the electricity generated by nuclear plants is cheaper than that produced by oil or coal; the expected frequency and predicted consequences of an accident at a nuclear plant indicate that nuclear power hazards are much lower than many of the other environmental hazards we are exposed to daily; the only way to "prove" the safety of nuclear plants is through continued successful operation and not by means of a moratorium; that the threat of plutonium to society through terrorist activities has been overestimated; and that decisions on nuclear power must be made by balancing the benefits against the risks and the risks presently appear acceptable.

Under cross-examination, Dr. Elleman testified that a terrorist group could shut down or disable a nuclear power plant but it is unlikely that such a group could create a release of fission products from the plant; that he sees a shift from natural gas and oil to coal and nuclear power; that he sees electricity constituting a much larger fraction of our energy resources in the future since it can be transmitted long distances and it is a nonpolluting means of transmitting energy; and that uranium reprocessing facilities have been delayed by the election of government not to decide the question of usage of plutonium in nuclear plants yet and by lack of large volumes of wastes for reprocessing.

Ms. Paula Clutterbuck of 2915 Faw Road, Winston-Salem, North Carolina, representing Community Environmental Action Association in Winston-Salem, requested that her Association

be placed on record as opposed to the issuance of a certificate by this Commission allowing the construction of Perkins Nuclear Station.

The Commission finds from the evidence that the proposed Perkins Nuclear Station is a part of Duke's Project 81. The proposed Perkins Nuclear Station will have three units, each with an electrical output of 1280 MW. The nuclear steam supply system for each unit is a 2-loop 4-pump pressurized water reactor manufactured by Combustion Engineering, Inc., and the estimated construction cost of the Perkins Nuclear Station is $3,343,388,000, exclusive of fuel but including cooling towers and transmission lines.

The Commission concludes that, of the alternative types of generation, only a coal-fired steam plant was found to warrant serious consideration. The analysis of two alternative patterns of new generation demonstrated a large economic advantage for nuclear-fueled units. Considering the coal-fired steam plant, coal would have to be available at a cost substantially below estimated levels to be economically competitive with nuclear generation. There is no indication of a reduction in the price of coal for the foreseeable future. Although nuclear plants require higher initial investment, they provide lower ultimate cost to the consumer. In addition to the overall economic advantage, there are a number of environmental advantages of nuclear units as compared with coal-fired units. Since combustion of fossil fuels is not involved, the nuclear plant offers no air pollution. Although the plant does produce radioactivity, release will be well within permissible radiation limits. Land use and pollution preventative measures associated with fly ash impoundment and control will be nonexistent at the nuclear station. Overall, the low noise levels and general cleanliness of the Perkins Station are far more aesthetically acceptable than an equivalent coal-fired station. Either alternative will meet all applicable pollution control limits.

The Commission further concludes that the construction of the proposed Perkins Nuclear Station is consistent with results of its Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Mr. William S. Lee testified that historically Duke preferred the use of cooling lakes instead of cooling towers. However, during the site selection studies for Project 81, the U.S. Environmental Protection Agency in July, 1973 indicated the possibility of regulations prohibiting the use of cooling lakes for new plants. In October 1974, EPA promulgated regulations which made cooling towers necessary for units of the Perkins vintage. Duke joined with others to contest these regulations in court but continued site studies with these regulations in mind. The restraint of using cooling towers was imposed on all sites

to ensure that the station could be brought into service in time to meet future power requirements and satisfy regulatory requirements. Under this restraint, sites suitable for cooling towers only were found to be superior from an economic and environmental standpoint and hence were selected. In addition, the use of sites suitable only for cooling towers has the further advantage of reserving sites which have potential for lake cooling for use in future site studies.

On December 8, 1976 the U.S. Court of Appeals for the Fourth Circuit suspended EPA regulations and ordered them to be reconsidered. The proposed schedule for the proposed effluent guidelines for steam electric power plants projects a publication date of March, 1978.

Mr. Lee indicated that Duke is into the final licensing phases leading to start of construction of the Perkins Station. If Duke waits until final guidelines are available from EPA, for example early 1979, before seeking a new site for the Perkins generating capacity, and assuming one of its existing lake sites would meet final regulations for use for lake cooling, Duke could not bring the first unit at that site into commercial operation until mid 1990, five years behind the current needs.

Mr. Lee further testified that the difference in capital cost between lake cooling and the proposed closed cycle mechanical draft alternative was approximately $50,000,000. He also indicated that the total capitalized penalty for the cooling tower system would be around $30,000,000. Mr. Lee also stated that the losses due to the cooling tower would be much less than the talked about 5%. He indicated that the energy losses due to cooling towers at the Perkins Nuclear Station would be closer to 1.6%.

The Environmental Management Commission studied the Yadkin River and the effects of Duke's withdrawal on downstream users. It estimates the consumptive use of water under Duke's proposal to range up to 112 cfs (MGD). In its Resolution 76-41, the Commission had no objection to Duke's withdrawal and consumptive use of water from the Yadkin if Duke complies with certain proposed conditions.

The Commission concludes that the proposed mechanical draft cooling towers are necessary for the timely addition of the Perkins Plant to satisfy future load requirements. The Commission further concludes that Duke should adhere to the Environmental Management Commission Resolution 76-41 to minimize the effects of Duke's withdrawal on downstream users.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Mr. Albert H. Calloway, Assistant Director, Division of Community Assistance, North Carolina Department of Natural and Economic Resources, Raleigh, North Carolina, appeared

for the Commission Staff. Mr. Calloway testified that he was Project Coordinator to develop a Report on the Social and Economic Effects of the Duke Power Company Perkins Nuclear Station in Davie County, which was introduced into the record; that the report was prepared at the request of Mr. James E. Harrington, Secretary of the Department of Natural and Economic Resources, that the purpose of the report was to survey and analyze the major effects during construction and operation of the plant as they involve the population, economy and public facilities; that the report was based on extensive data gathered by the Project Task Force; that the data gathered included questionnaires sent to the local government officials in areas of the country which have experienced the construction of similar plants; and that the conclusion of the report is that Perkins will have a beneficial effect on the social and economic conditions in the area.

Under cross-examination, Mr. Calloway testified that the report did not consider the effect of the water usage of Perkins; that the report did not consider any effects on High Rock Lake; and that the study assumed that the plant would be built in accordance with Duke's proposed plan.

Mr. Robert E. Leak, Director, Division of Economic Development, North Carolina Department of Natural and Economic Resources, Raleigh, North Carolina, appeared for the Commission Staff. Mr. Leak testified that he participated in the development of the North Carolina Growth Management Study; that the purpose of the study was to define a policy for economic development and a comprehensive economic growth management policy; that the goal of the Steering Committee which directed the study is to raise per capita income in North Carolina to $5,670 (1967 dollars) by 1990; that the Duke Power Service area is the region of the State best able to support the range of goods and services necessary to attract sophisticated, high-skill, high-wage, high-growth industries which can achieve the goal; that the 34 counties served by Duke accounted for 50.9 percent of the new and expanded industrial facilities attracted to the State between 1965 and 1974; and that federal regulations on the prevention of significant air quality deterioration would discourage the industrial recruitment effort in the mountains and coastal plains areas of the State and would leave only the Piedmont as a growth area.

Under cross-examination, Mr. Leak testified that the level of industrial development in the Duke Power service area has resulted in a self-perpetuating growth cycle which is expected to continue; that growth in the future may slow due to saturation in the use of natural resources in some areas; and that the study considered industrial recruitment to be the most viable strategy to achieve its goal.

Mr. Dail testified for Duke that construction and operation of the station is expected to result in certain social and economic benefits and costs. The fundamental

benefit to be derived from the station will be the power generated and delivered to Duke's customers. The annual generation is expected to be 25,565,000 MWH. The secondary benefits include averting electrical power shortages, increased tax revenues, new employment opportunities, and increased sales of local and regional products.

Ms. Mona F. Potts, Route 2, Box 244, Advance, North Carolina, appeared as the representative of a group of persons living in the general plant area. She stated that the community in general is opposed to the project, that it will be a hazard, and will disrupt and spoil their way of life. She asserted that the Davie County Board of Commissioners have not consulted the people directly involved and that the Board's support for the project is based only on their personal opinions.

Mr. Ronald Vogler, County Manager of Davie County, North Carolina, appeared on behalf of and speaking for the Davie County Board of Commissioners. Mr. Vogler stated that the Board was elected by the majority of voters in Davie County and feel that they are speaking for the majority of the people in the County in supporting the granting of a Certificate, based on petitions received by the Board in early 1974 supporting the construction of the nuclear facility in Davie County.

Mr. Vogler further stated that the Board supports the efforts of Duke to locate and construct Perkins Nuclear Station in Davie County, as proposed. The Board considers Duke to be a responsible company employing very capable persons of integrity, and the Board, therefore, considers the projections of the need for the facility and the power to be generated to be reliable. The Board also feels that a shortage of electric power would have a disastrous impact on the economy of the area and urges the Utilities Commission to assure that adequate power will be available.

The Commission concludes that the social and economic benefits far outweigh the social and economic disadvantages associated with the Perkins Plant. In any event these said disadvantages are substantially outweighed by the public convenience and necessity shown for the proposed plant.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

With respect to the total environmental impact of the Perkins Nuclear Station on the water in High Rock Lake and the people residing in the area, the Commission heard testimony from many witnesses.

Mr. Dan E. McDonald, Assistant Director, Division of Resource Planning and Evaluation, North Carolina Department of Natural and Economic Resources, Raleigh, North Carolina, appeared for the Commission Staff. Mr. McDonald testified at the January 1976 hearings that DNER studied the effects of Duke's proposed Perkins Nuclear Station on water

resources to define conditions under which the water resources features of the project would be acceptable to the State; that Perkins, as originally proposed, would have had significant adverse effects on stream flows and water quality in the Yadkin River; that the project could be modified to be acceptable to the State; that, after analysis, the Department concluded that Duke could withdraw and use water from the Yadkin River without objection from the State under the following conditions: (1) Duke would make no net withdrawals when stream flow is less than 880 cfs as measured at the Yadkin College gage, (2) Duke will limit withdrawal from the Yadkin to not more than 25 percent of total stream flow, or not more than the portion of stream flow which exceeds 880 cfs, whichever is less, (3) Duke's maximum consumptive use of water will not exceed 112 cfs, and (4) any license or permit to Duke involving water use or withdrawal will be reviewed at five-year intervals and be subject to whatever modifications the Environmental Management Commission (EMC) deems appropriate; that Duke agreed to these conditions; that the EMC directed DNER to conduct a capacity-use investigation under the provisions of G.S. 143-215.13(c).

Under cross-examination, Mr. McDonald testified that the EMC can regulate water withdrawals only by the declaration of a capacity-use area; that the fluctuations in the water level of High Rock Lake, using 1974 as an example, would be from elevation 655 feet to 651.21, or less than five feet; that the withdrawal of 80 cfs from High Rock Lake, assuming no inflow or outflow, would be a reduction in the water level of approximately 0.01 feet per day; that the effect of Perkins on High Rock Lake during 1974 would have been to decrease the water level from 651.21 feet down to 650 feet; and that the stream flow in the Yadkin for 1974 was slightly above average stream flow.

Mr. L. P. Benton, Head of Field Services Branch, Division of Environmental Management; North Carolina Department of Natural and Economic Resources, Raleigh, North Carolina, appeared for the Commission Staff. Mr. Benton testified that he is responsible for reviewing all applications for waste water discharge permits, as well as applications for certifications under Section 401 of Public Law 92-500; that Duke applied for certification of the Perkins Project on January 29, 1975; that on February 13, 1975, a public notice was published in the Davie County Enterprise Record concerning the intent of DEM to issue certification; that no adverse comments relating to the proposed action were received; and that on July 7, 1975, the certification was issued. Mr. Benton further testified that Duke had not then filed application for the required North Carolina discharge permit; that he has no reason to believe that the required permit should not be issued upon the filing of the necessary application and supporting documents; and that on the basis of his best professional judgment the proposed facilities are capable of not only meeting the applicable effluent limits but of protecting the water quality standards. Mr.

Benton also testified that he considers either mechanical draft cooling tower techniques, as proposed for Perkins, or natural draft techniques to be equally effective from the point of view of heated water management.

Under cross-examination, Mr. Benton testified that a State of North Carolina Discharge Permit will be required 30 days prior to start of construction of waste water treatment facilities; that the criteria for approving or disapproving a permit application are the impact of the discharge on water quality standards and the impact of the discharge upon effluent limitations promulgated by North Carolina or the EPA; that, in order to determine whether water quality standards can be protected, the joint effect of all discharges in the stream segment must be considered; that he is familiar with complaints concerning water quality in the Yadkin River in the vicinity of the Perkins site and of fish kills in the Yadkin River; that the daily average pollution load in the Yadkin River is higher than ten years ago; and that Duke will have to meet the applicable state and federal effluent standards.

Mr. Dail, Duke Power Company, testified that the waste heat produced during the operation of Perkins will be dissipated through the use of wet mechanical draft cooling towers. Although the majority of the waste heat will be dissipated directly to the atmosphere, the operation of the cooling towers requires that a small amount of water be discharged into the Yadkin River. Evaluation of the effect of this small amount of heated water discharged into the Yadkin River indicated that even under the most adverse meteorological and hydrological conditions the thermal plume created is anticipated to be very small and would not have significant adverse effects on the biota in the Yadkin River.

Mr. William G. Pfefferkorn, Sr., Chairman of the Board, High Rock Lake Association, Inc., an intervenor described the location, size, and characteristics of High Rock in order to explain the lake drawdown problem which occurred in the late 1950's. As a result of this problem, the High Rock Lake Association was formed in order to solve the drawdown problem and thereby improve water-related recreation on the lake. The result was the imposition of restrictions by the Federal Power Commission on the drawdown of the lake during the period May 15-September 15 of each year.

Mr. Pfefferkorn further testified that the Association had intervened in this proceeding due to concern over the effects of the operation of the proposed Perkins Nuclear Station on High Rock Lake; that Perkins would have an adverse effect on the quantity as well as the quality of the water in the Yadkin River; and that, in his opinion, there would be atmospheric problems and some hazard associated with Perkins. Mr. Pfefferkorn stated that, as the result of the concerns of the Association which were not alleviated by a presentation by Duke concerning the absence of any

significant effect of Perkins on High Rock Lake, the Association decided that intervention in this proceeding to oppose the project was their only choice. Mr. Pfefferkorn also read into the record an excerpt from a letter written by Mr. W. Harmon Snead, past President of the Association, concerning the effects of the operation of an atomic power plant by Carolina Power and Light Company on Lake Robinson.

With respect to the environmental impact resulting from radioactive releases the Commission heard from three witnesses.

Mr. Dayne H. Brown, Head of the Radiation Protection Branch, Division of Facility Services, North Carolina Department of Human Resources, Raleigh, North Carolina, appeared for the Commission Staff. Mr. Brown testified that the Radiation Protection Branch implements the responsibilities of the Department in the area of ionizing radiation as provided by the North Carolina Radiation Protection Act, Chapter 104E of the North Carolina General Statutes; that under an agreement with the NRC, the NRC maintains exclusive jurisdiction over all on-site radiological matters at nuclear plants; that while the State does have off-site jurisdiction, it does not have the authority to establish radioactivity concentration standards which would be so restrictive as to have the effect of regulating on-site radioactivity levels; the Branch performs reviews of: (1) technical Preliminary Safety Analysis Reports (PSAR's), Final Safety Analysis Reports (FSAR's), Environmental Reports (ER's), and NRC draft and final Environmental Impact Statements (EIS's), (2) environmental radiation surveillance, and (3) emergency response planning for postulated accidents; that Duke's environmental monitoring program appears adequate; that the Department is in the process of executing a formal memorandum of understanding with Duke to delineate emergency response and emergency response planning responsibilities; that the memorandum obligates Duke to promptly notify the Department in the event of significant abnormal releases of radioactivity into the air or water; that, based on the assumption that Perkins will operate in accordance with the specifications contained in the FSAR, he does not believe that the plant's normal operation will result in significant radiation exposures to nearby residents; and that in the event of an accident the emergency response plans and capabilities will be adequate to provide for the protection of the public.

Under cross-examination, Mr. Brown testified that any radiation standards which the Department has governing releases into the air or water are well above the limits set by the NRC; that he is absolutely confident, after evaluating the planned releases, that Perkins will meet the State standards; that Chapter 104E of the North Carolina General Statutes established the North Carolina Radiation Protection Commission which will promulgate regulations to be enforced by the Department; that his Branch would not

have any jurisdiction over the transportation of fuel elements or spent fuel except in response to an accident; and that his duties would include perpetual maintenance and custody of any radioactive materials that, in the future, might come into the custody of the State.

Mr. Dail of Duke Power Company testified that the operation of the Perkins Nuclear Station will result in routine, controlled releases of radioactive elements to the environment. These releases are subject to and limited by federal and state regulations and will be only a very small percentage of the natural background radiation in the area.

Professor Elleman, for the Commission Staff, testified that radiation levels from a safety operated nuclear plant provide a negligible radiation exposure to the general public; that nuclear reactors release no particulates or sulphur dioxide that could provide an environmental burden; that successful solutions to the problem of disposal of radioactive wastes are at hand; and that the legacy to future generations of a properly designed waste facility is clearly preferable to a legacy of inadequate power and exhausted resources of fossil fuels.

Under cross-examination, Dr. Elleman testified that no threshold limits for radiation damage have been determined; that radiation hazard is believed to be a probabilistic phenomenon; that the Rasmussen report on the risks associated with a nuclear power plant is based on probabilities; that storage of radioactive wastes in salt beds has not been carried out on a large scale but has been tried experimentally; and that the amounts of radioactive wastes generated by industry as a whole could be contained in an area the size of a football field to a depth of three or four feet.

In December 1976 the North Carolina Environmental Management Commission adopted Resolution No. 76-41 stating the Commission's position concerning withdrawal and use of water from the Yadkin River for operation of the proposed Perkins Nuclear Generating Station. The Commission concluded that Duke could withdraw and use water from the Yadkin River if Duke complies with the following conditions: (1) Duke will make no withdrawals when stream flow is less than 1,000 cfs (645 MGD), (2) Duke will limit net withdrawals from the Yadkin River to not more than 25% of the total stream flow, or not more than that portion of this measured total stream flow that is in excess of 1,000 cfs, whichever is the lesser, (3) Duke's maximum daily consumptive use of water due to forced evaporation will not exceed 112 cfs (72MGD), (4) these conditions will be reviewed by the Environmental Management Commission at not less than five year intervals and will be subject to whatever modifications the Commission deems necessary, and (5) Duke establish a suitable system for monitoring and reporting water withdrawals and water releases.

The Commission concludes that the Nuclear Regulatory Commission and the North Carolina Department of Human Resources, through a working agreement with the Nuclear Regulatory Commission, have primary responsibility in ensuring public safety from radiation exposure generally as affected by the design and operation of the proposed nuclear plant; and that an Application has been made but the Nuclear Regulatory Commission has not yet held hearings or granted a permit authorizing construction of the proposed plant. Hearings by the Nuclear Regulatory Commission are expected to commence this year (1977).

The Commission further concludes that the Department of Natural and Economic Resources, in conjunction with the U.S. Environmental Protection Agency, has primary responsibility over the use and/or pollution of the water and air resources generally of the State; that said Department has studied the environmental effects of the proposed Perkins Nuclear Station on the Yadkin River and has issued a 401 Certification pursuant to the Federal Water Pollution Control Act, and that based on a review, to date, believes that additional necessary permits will be issued upon the filing of application and supporting documents.

While the Commission recognizes that the Department of Human Resources and the Department of Natural and Economic Resources have primary jurisdiction in the establishment, review, and surveillance of the design and operation of the proposed plant as it might affect the public from radiation exposure and as it might affect the water and air resources of the State, the Utilities Commission retains the overall responsibility of determining whether Public Convenience and Necessity is to be served by construction and operation of the Perkins Nuclear Station.

With respect to the normal planned releases of radioactive effluents, the Commission concludes that Duke has satisfied the safety standards of the Department of Human Resources in that these releases will be within established health guidelines; that to ensure the plant does not exceed the guidelines, the Department of Human Resources will conduct ongoing and independent radiation surveillance programs around the proposed facility; that, in the event one of the postulated accidents occurs, State and local governments and Duke Power Company emergency response plans and capabilities will be adequate to provide for protection of the public.

The Commission agrees with studies by the U.S. Public Health Service, Bureau of Radiological Health which have shown that a pressurized water nuclear power plant results in less radiation exposure to the public due to radioactivity in gaseous emissions than does a modern coal-fired plant, which was the alternative to the Perkins Station. The Perkins Station will process all of its radioactive liquid waste to reduce the amounts of radioactivity so that all liquid effluent releases to the environment will be well within NRC limits and the U.S.

Public Health Service limits. The Commission concludes that the Perkins Station will have a minimal adverse environmental impact when compared with alternative modes of generation and is found to be the most environmentally acceptable.

The Commission finds from the evidence that the station will employ a system of wet mechanical draft cooling towers to dissipate waste heat via evaporative cooling resulting in a discharge of water vapor into the atmosphere. The Commission, therefore, concludes that the cooling towers as described by Duke were selected on the basis of plant licensability commensurate with minimum environmental impact. The amount of evaporative loss is about 69 cfs at 76 percent station capacity factor. Through its environmental monitoring program, Duke has collected the information to evaluate the environmental impacts of station construction and operation. Operation of the plant will be performed under various licenses and permits of state and federal agencies. The environmental impact of facility operation will be monitored and any necessary corrective actions will be taken.

The Commission concludes and is persuaded by the evidence that the environmental impact of Perkins Nuclear Station and associated transmission facilities is justified considering the need for power, the state of technology and the nature and economics of various alternatives.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The record in this proceeding is replete with evidence which clearly shows the need for the generating facilities proposed by Duke Power Company. This need is not only for the short-range future but also the need for power as we approach the next century.

The Commission is cognizant of G.S. 62-110.1 which provides that the Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina. The Commission considered this analysis in acting upon the petition by Duke for construction of the proposed Perkins Nuclear Station.

IT IS, THEREFORE, ORDERED:

1. That a Certificate of Public Convenience and Necessity be, and it is hereby, granted to Duke Power Company for the construction of Perkins Nuclear Station, having a nominal output of 3,840 megawatts, to be located on a site near the Yadkin River in Davie County, North Carolina, as applied for in this proceeding subject to the conditions hereinafter set forth.

2. The Certificate is subject to the following conditions imposing limitations upon use of water from the Yadkin River for the Perkins Plant:

(a) Duke will make no net withdrawals from Yadkin River when the streamflow is less than 1,000 Cfs (645 MGD).
(b) Duke will limit net withdrawals from Yadkin River to not more than 25% of the total streamflow, or not more than that portion of this measured total streamflow that is in excess of 1,000 cfs, whichever is the lesser quantity (refer to Analysis of Yadkin River Flows with Perkins Power Plant Under Proposed DNER Withdrawal Restrictions included as Attachment A to said Resolution No. 76-41).
(c) Duke's maximum daily consumptive use of water due to forced evaporation will not exceed 112 cfs (72 MGD).
(d) These conditions will be reviewed by the Commission after review by the Environmental Management Commission at not less than 5 year intervals and will be subject to whatever modifications the Commission deems necessary to conserve and protect water resources consistent with the public interest, including any modification that may arise from declaration of capacity use area pursuant to G.S. 143-215.11 et seq. and/or issuance of an order pursuant to N.C.G.S. 143-215.13(d).
(e) That Duke will establish a suitable system for monitoring and reporting water withdrawals and water releases which is acceptable to the Commission, in consultation with the Director, Division of Environmental Management.

3. The plant will be constructed and operated in strict accordance with all applicable Laws and Regulations, including the construction and operation licenses to be issued by the Nuclear Regulatory Commission and the permits issued by the North Carolina Department of Natural and Economic Resources.

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

5. During the month of January of each year, beginning with the year 1977, Duke shall furnish the Commission with a progress report which shall provide information upon which the Commission may evaluate the current status of the construction of said facility and the time at which it is anticipated said facility, or any part thereof, might become operational for the generation of electric energy.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of March, 1977.

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

DOCKET NO. E-2, SUB 297

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Carolina Power & Light Company for) ORDER
Authority to Increase its Rates and Charges in) SETTING
its Service Area Within North Carolina) RATES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on April 12-15, 1977, and April 19-22, 1977

Commissioners Assembly Room, County Administration Building, 320 Chestnut Street, Wilmington, North Carolina, on April 27, 1977

District Courtroom No. 1, Seventh Floor, Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on April 28, 1977

BEFORE: Chairman Tenney I. Deane, Jr. (Presiding), and Commissioners Ben E. Roney, 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., and Richard E. Jones, Attorneys at Law, Carolina Power & Light Company, Post Office 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, Batch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, Post Office Box 527, Raleigh, North Carolina 27602
For: North Carolina Oil Jobbers Association
David H. Permar

R. C. Hudson, Malcolm Higgins, Office of General Counsel, Department of the Navy, Atlantic Division, Facilities Engineering Command, Building N-21, U. S. Naval Station, Norfolk, Virginia 23511
For: Consumer Interests of all Executive Agencies of United States Government

Robert P. Gruber, Special Deputy Attorney General, Jesse C. Brake, Assistant Attorney General, and Richard L. Griffin, 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:

Robert F. Page and Theodore C. Brown, Jr., Assistant Commission Attorneys, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On December 1, 1976, Carolina Power & Light Company (hereinafter called the Applicant, the Company or CP&L) filed an application with the Commission 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 approximately $69,239,000 of additional annual revenue from the Company's North Carolina retail operations when applied to a test period consisting of the 12 months ended June 30, 1976, or approximately a 15% increase in total charges, including fuel charges. The Company requested that such increased rates be allowed to take effect as of January 1, 1977. Its application alleged and contended that the $69,239,000 of additional annual revenue was necessary in order to improve the Company's earnings and to provide a sufficient rate of return on its investment to support its construction program, which program is needed to provide adequate service to its retail customers in North Carolina.

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 December 21, 1976, declared the application to be a general rate case pursuant to G.S. 62-137, 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, April 12, 1977, with the burden of proof being placed on CP&L to show that the proposed increase in rates and charges was 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 inserts, established the test period to be used by all parties in the proceeding, 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 March 15, 1977, petitions for leave to intervene in this matter were filed on behalf of the North Carolina Oil Jobbers Association and on behalf of David H. Permar, an individual customer of CP&L. By Orders issued on March 21, 1977, 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 both of these parties. On March 16, 1977, Notice of Intervention in this matter was given by the Attorney General of North Carolina on behalf of the using and consuming public. On the same date, the Attorney General moved for an extension of time within which to file the testimony of his expert witness, Dr. Willard T. Carleton. By Orders issued on March 17, 1977, the Notice of Intervention of the Attorney General was recognized, and the Attorney General was granted through and including April 8, 1977, if necessary, within which to file the testimony of his expert witness.

On April 12, 1977, petitions for leave to intervene in the matter were filed on behalf of the North Carolina Textile Manufacturers Association, Inc., and on behalf of the United States of America, particularly the consumer interests of the Executive Agencies of the United States. Such motions were allowed orally by the Chairman at the beginning of the hearings on April 12. Also, on April 12, 1977, the Attorney General, an intervenor herein, made a motion requesting the Commission to hold at least one day of hearings and one evening session of hearings in Asheville, North Carolina, and either Clinton or Wilmington, North Carolina. By Order issued on April 20, 1977, as will appear of record, the Commission allowed such motion in part. The intent of the Commission's Order was to provide an opportunity for individual customers of CP&L in eastern and western North Carolina to testify closer to their homes with respect to the Company's application for a general rate increase.

The matter came on for hearing as previously ordered by the Commission on April 12, 1977, at 10:00 a.m., for the purpose of presenting the Applicant's evidence. The Applicant offered the testimony of the following witnesses:

(1) Shearon Harris, Chairman of the Board 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) Edward G. Lilly, 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 regain the A rating on its bonds from Moody's Investors Service, Inc., its need to sell common equity shares on the market at or above book value, its need for an increase in the allowed rate of return on common equity, and the effect upon CP&L and its customers of placing the Brunswick No. 1 Nuclear Unit into commercial operation; (3) 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) Robert R. Nathan, President of Robert R. Nathan Associates, Inc., a firm of consulting economists, presented general economic testimony relevant to the Company's request for increased rates for the sale of electric power and reviewed the more pronounced economic developments that have taken place in the recent past, emphasizing those having the most impact on the needs of CP&L for increased rates; (5) Julius Breitling, Director of the Evaluation and Appraisal Department of Ebasco Services, Incorporated, presented the results of his study of replacement cost new of CP&L's electric plant in service at June 30, 1976, and the replacement cost new less depreciation of this property at June 30, 1976; (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) Freddy R. Horn, Supervising Analyst - Retail Cost Studies in the Rates and Regulation Department of CP&L, testified concerning the assignment and allocation of rate base components, revenues, expenses and capital structure to the Company's North Carolina retail operations, which are subject to the jurisdiction of this Commission; (8) Larry E. Smith, Manager - Fuel for CP&L, testified concerning a proposed change by the Company in its method for calculating present cost of nuclear fuel spent in generating electricity; and (9) James M. Davis, Jr., Director of Rates and Regulation for CP&L, presented the actual operating results of the Company during the test period ending June 30, 1976, with appropriate adjustments and also presented the proposed rates for which the Company is requesting approval in this proceeding.

During the course of presentation of the Company's evidence, several members of the general public appeared and offered testimony to the Commission, which testimony generally questioned the need for and the justness and reasonableness of the proposed rate increase requested by CP&L. Those persons were the following: Joseph Reinckens, Richard Whittington, John Hood and Arthur Eckels.

The Commission Staff offered evidence from eight witnesses, whose testimony may be summarized as follows: (1) Dennis J. Nightingale, Senior Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning the reasonableness of CP&L's current plant in service and construction program, based primarily on the information contained in the Commission's "Report of Analysis and Plan; Future Requirements for Electricity Service to North Carolina" dated February 1977; (2) 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 period; (3) Eugene H. Curtis, Jr., Operations Engineer, Operations Analysis Section - Engineering Division of the Commission Staff, testified concerning his analysis of the replacement cost or trended original cost study presented by Carolina Power & Light Company and also testified concerning the derivation of the fair value rate base; (4) Andrew W. Williams, Chief Engineer, Electric Section - Engineering Division of the Commission Staff, testified in two different subject areas: (a) the Staff's investigation of CP&L's fuel procurement activities and (b) the appropriate level of fuel costs which should be included in the basic rate design, recommending a change in the base fuel cost level proposed by the Company; (5) Donald R. Hoover, Chief Accountant, Electrical Section - Accounting Division of the Commission Staff, presented his analysis of the Company's books and records for the test year ended June 30, 1976, resulting in an exhibit entitled "Study of Original Cost Net Investment, Revenues, Expenses, and End-of-Period Rates of Return under Present and Company Proposed Rates"; (6) H. Randolph Currin, Jr., Senior Operations Analyst, Operations Analysis Section - Engineering Division of the Commission Staff, testified concerning the cost of capital and fair rate of return of CP&L; (7) N. Edward Tucker, Jr., Utilities Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning the Company's proposed allocation of the revenue increase to all rate classes and his review of the relative level of rates and the design of such 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 Rules and Regulations; and (8) Dr. Dennis W. Goins, Economist, Operations Analysis Section - Engineering Division of the Commission Staff, offered testimony analyzing the residential rate schedule proposed by CP&L in this docket.

Two out-of-town hearings were conducted by the Commission for the purpose of receiving testimony from the 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 Wilmington, North Carolina, on Wednesday, April 27, 1977. One public witness, Carole

Cardwell, appeared at the Wilmington public hearing and opposed the rate increase on various grounds.

The second such hearing was held in Asheville, North Carolina, on Thursday, April 28, 1977. Fifteen witnesses appeared at the Asheville hearing, all of whom opposed the rate increase on various grounds. Those witnesses appearing at the Asheville hearing were the following:

Howard Linsz	Porter Jones
Anne Garren	Helen Reed
Harold Hinson	Dr. Edgar Lyngholm
H. F. Moore	Don Hall
Eva Kirkpatrick	Elizabeth Walker
Ernest Melton	Broadus Taylor
Gene Rainey	Randy Keever
	Maxwell Garland

Oral arguments were scheduled by the Commission, with the consent of all parties, and were held in the Commission Hearing Room on Thursday, May 5, 1977, at 10:00 a.m. Arguments were presented on behalf of the Company, the using and consuming public, the North Carolina Oil Jobbers Association and David Permar, the North Carolina Textile Manufacturers Association, Inc., and the Executive Agencies of the United States. Following the completion of such arguments, the hearings in this matter were adjourned and the record was closed.

Based on the foregoing, the verified application, the testimony and exhibits received into evidence at the hearings, 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 purposes of this proceeding is the 12-month period ended June 30, 1976. CP&L is seeking an increase in its basic rates and charges to North Carolina retail customers of approximately $69,239,000 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 Brunswick No. 1 nuclear unit should be included in CP&L's property used and useful in providing electric service to its retail customers in North Carolina.

6. 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 $1,502,610,000, which sum is composed of electric plant in service of $1,477,959,000 and nuclear fuel (net) of $24,651,000. The reasonable accumulated provision for depreciation is $251,076,000, and the reasonable original cost less depreciation is $1,251,534,000.

7. That the reasonable replacement cost of CP&L's property used and useful in providing retail electric service in North Carolina is $1,842,545,000.

8. 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 2/3 weighting to the original cost less depreciation of CP&L's utility plant in service and 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 $1,251,534,000 and the reasonable replacement cost of $1,842,545,000, this Commission finds that the fair value of said utility plant devoted to intrastate retail electric service in North Carolina is $1,432,104,000. This fair value includes a reasonable fair value increment of $205,221,000.

9. That the reasonable allowance for working capital is $69,384,000.

10. 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 $1,432,104,000, plus the reasonable allowance for working capital of $69,384,000, and an allowance for net nuclear fuel of $24,651,000, yields a reasonable fair value of CP&L's property in service to North Carolina retail customers of $1,526,139,000.

11. That CP&L's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $462,918,000 under the present rates and, after giving effect to the Company's proposed rates, are $532,157,000.

12. That CP&L's fuel procurement activities and practices are reasonable and are in accordance with similar practices previously reviewed by this Commission.

13. That the proper base fuel cost level to be incorporated into the basic rate design and the recommended fuel cost adjustment formula (G.S. 62-134(e)), including the actual initial cost of nuclear fuel, based on the adjusted test year cost levels, which is appropriate for use in this proceeding, is 0.680¢/KWH.

14. That the proper and appropriate Approved Fuel Charge to be applied to the basic rates approved herein during the July 1977 billing month is a credit of 0.055¢ per kilowatt-hour of sales.

15. That in light of the current Federal Administration's stated policies to disallow nuclear fuel reprocessing, it is reasonable to include in the total cost of nuclear fuel the estimated cost of permanent disposal of the radioactive material resulting from nuclear plant operations.

16. That the level of test year operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $366,167,000, which includes an amount of $50,765,000 for actual investment currently consumed through actual depreciation after annualization to year-end levels.

17. That the capital structure which is proper for use in this proceeding is as follows:

Item (a)	Percent (b)
Long-term debt	45.29%
Preferred stock	13.79%
Common equity	35.95%
Cost-free capital	4.97%
Total	100.00%

18. That when the excess of the fair value rate base over the 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:

Item (a)	Percent (b)
Long-term debt	39.20%
Preferred stock	11.94%
Common equity	44.56%
Cost-free capital	4.30%
Total	100.00%

19. That the Company's proper embedded costs of debt and preferred stock are 7.71% and 8.01%, respectively. The fair rate of return which should be applied to the fair value

rate base is 8.20%. This return on CP&L's fair value rate base will allow a return on fair value equity of 9.47% after recovery of the embedded costs of debt and preferred stock. A return of 9.47% on fair value equity results in a return of 13.57% on original cost common equity.

20. That CP&L should be allowed an increase in addition to the annual gross revenues which would be realized under its present base rates, excluding the effect of the fuel charge rider, in an amount not to exceed $44,253,000. This increase in base rates is required in order for the Company to have a reasonable opportunity through efficient management to earn the 8.20% rate of return on the fair value of its property used and useful in serving its customers. The increased revenue requirement is based upon the fair value of the Company's property and its reasonable test year operating revenues and expenses as heretofore determined.

21. That the rate structure proposed by CP&L for each rate classification will produce revenues and levels of return which exceed those herein approved, and such rate structure is, to that extent, unjust and unreasonable. However, such overall rate design will greatly reduce the existing variations in rates of return between rate classes and, thus, is not unreasonably discriminating as between classes of service.

22. That the general structure of the general service and lighting rate schedules proposed by CP&L is appropriate with one exception: the Company's proposed billing demand ratchet provision should be changed from 90% to 80% in the summer period and from 50% to 60% in the winter period. The proposed rates should also be adjusted to reflect the lesser amount of general revenue increase approved herein. The rates incorporating these changes and approved herein are those contained in the attached Appendix A.

23. That the changes in Service Rules and Regulations, Terms and Conditions of Service, and other provisions of service proposed by the Company should be implemented as filed.

24. That the residential rate design proposed by CP&L is not unreasonably discriminatory as between groups of residential customers. The residential rate schedule and tariff provisions, as filed by CP&L and as adjusted to reflect the lesser amount of general revenue increase approved herein, should be approved as just and reasonable with the following exceptions:

a. The summer-winter price differential should be decreased;
b. The term "Basic Facilities Charge" should be changed to "Basic Customer Charge";
c. The Basic Customer Charge should be decreased to $6 per residential customer per month; and

d. The approved residential rate schedule should incorporate an approved water heater provision to reflect the contribution of water heating customers to the improved system load factor of CP&L.

The approved residential rate schedule is shown as Schedule RES-3 in the attached Appendix A. Schedule RES-3 incorporates the Findings of Fact mentioned above and also reflects the change in the base of the fuel clause and the lower level of revenues approved in this Order.

25. That CP&L should, in the future, perform cost of service studies based on the winter as well as the summer annual system peak demand and that this additional study should be filed with the Commission on an annual basis.

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 G.S. 62-3(23)a.1. 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

The evidence for this finding is contained in the verified application, the Commission's Order Suspending Proposed Rates of December 21, 1976, 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 and 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 (particularly the commercialization of the Brunswick No. 1 Nuclear Unit on March 18, 1977), decreases in the market price of fossil fuel, increases in the price of nuclear fuel, improvements in times interest coverage ratios, and changes in the capital structure.

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

The Commission concludes that for purposes of this case, the appropriate test year to be adopted and applied is the 12 months ended June 30, 1976, as normalized to end-of-period levels and as adjusted for known changes which occurred up to the conclusion of hearings in this docket. Such specific changes and adjustments are discussed in subsequent 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, Breitling, and Davis and Staff witnesses Nightingale and Curtis. None of the public witness testimony was concerned with the adequacy, dependability or reliability of the quality of 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 these charges. In the absence of any 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

Staff witness Nightingale testified on the need for the Brunswick No. 1 nuclear unit. According to the Commission's report entitled "1977 Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina," the Brunswick unit is not needed for adequate and reliable electric service until the summer of 1978. However, Mr. Nightingale testified that using more recent peak load data than the data contained in the Commission's "Report" and the same reserve criterion for adequate and reliable electric service, Brunswick No. 1 is needed and will be required for the provision of adequate and reliable electric service during the winter of 1977-78.

The Commission is aware of the difficulty in placing new generating facilities into service as the need arises. However, the fact that this unit was placed in service on March 18, 1977, combined with the need for Brunswick No. 1 in the winter of 1977-78, leads the Commission to the conclusion that this unit is now used and useful in providing service to the public.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Davis and Staff witness Hoover offered testimony and exhibits concerning the original cost net investment in electric plant in service and net nuclear fuel.

The following chart summarizes the amount which each of the witnesses contends is proper:

000's Omitted

Item (a)	Company Witness Davis (b)	Staff Witness Hoover (c)
Electric plant in service	$1,490,662	$1,468,300
Nuclear fuel - net	23,427	27,876
Total	1,514,089	1,496,176
Less: Accumulated depreciation	238,468	250,654
Net electric plant in service and net nuclear fuel	$1,275,621	$1,245,522

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 and net nuclear fuel, but they disagree with regard to the amount. Company witness Davis testified that the test year level of electric plant in service was $1,490,662,000. Staff witness Hoover testified that the test year level of electric plant in service was $1,468,300,000, which is $22,362,000 less than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect actual construction cost of Brunswick Unit No. 1 at December 31, 1976	$ 9,659
Staff adjustment to reflect actual cost of net additions to utility plant in service through December 31, 1976	12,703
Total	$22,362

With respect to the Brunswick adjustment, the level of cost used by witness Davis in the amount of $199,367,000 represents the actual cost of Brunswick Unit No. 1 when placed in service on March 18, 1977. The level of cost used by witness Hoover in the amount of $189,708,000 represents the actual cost of Brunswick Unit No. 1 at December 31, 1976, the point in time through which witness Hoover adjusted the test year level of operations for known changes subsequent thereto.

With respect to the adjustment to reflect additions to utility plant in service other than Brunswick Unit No. 1, witness Davis used the estimated cost of plant additions through March 31, 1977, of $48,464,000; whereas, witness Hoover used the actual cost of net plant additions through December 31, 1976, of $35,761,000. In keeping with the

"matching concept" in income determination and the "test year concept" in the fixing of rates, witness Hoover also adjusted the test year levels of revenue and expense to reflect the total effect that this additional investment would have on the test year level of operations. While witness Davis increased the test year level of depreciation and property tax expense to reflect, in part, the related effect of the estimated cost of his estimated plant additions through March 31, 1977, he made no adjustment to the test year level of revenues to reflect the increase in electric energy sales that would result from the increase in the number of customers served and the increase in customer usage during the period July 1, 1976 (test year ended June 30, 1976), through March 31, 1977.

It is the Commission's statutory duty to "consider such relevant, material and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, 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." Accordingly, the Commission adopts the Company's adjustment to reflect the actual construction cost of Brunswick Unit No. 1 when placed in service on March 18, 1977, of $199,367,000 and the Staff's adjustment to reflect the actual cost of net additions to electric plant in service other than Brunswick Unit No. 1 of $35,761,000, which other additions were included as of December 31, 1976.

Consistent with the adjustments described above, the Commission concludes that the following calculation of electric plant in service of $1,477,959,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Electric plant in service at June 30, 1976	$1,242,831
Brunswick Unit No. 1	199,367
Additions to electric plant in service through December 31, 1976	35,761
Total	$1,477,959

The next area of disagreement between the witnesses is the amount properly includable as investment in nuclear fuel. Staff witness Hoover testified that the test year level of investment in nuclear fuel was $27,876,000, which is $4,449,000 more than the $23,427,000 test year level proposed by Company witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect actual cost of Brunswick Unit No. 1 nuclear fuel (net) at December 31, 1976	$ (148)
Staff adjustment to reflect the actual cost of nuclear fuel (net) in service at December 31, 1976	3,635
Staff adjustment to reflect additional accumulated amortization of nuclear fuel applicable to Brunswick Units Nos. 1 and 2	(2,263)
Company adjustment to amortize a portion of spent nuclear fuel cost	3,225
Total	$ 4,449

As previously discussed, the level of cost used by witness Davis to reflect the pro forma inclusion of Brunswick Unit No. 1 in the test year level of investment represents the actual cost of Brunswick Unit No. 1 when placed in service on March 18, 1977. However, with regard to the investment in nuclear fuel applicable to Brunswick Unit No. 1, witness Davis used an estimated cost of $13,340,000. As shown in the above chart, witness Davis' estimated cost is $148,000 higher than the actual December 31, 1976, level of $13,192,000 as presented by the Staff. As previously stated, 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. Accordingly, in arriving at the test year level of investment in nuclear fuel, the Commission will include the Staff's adjustment to reflect the actual cost of Brunswick Unit No. 1 nuclear fuel at December 31, 1976.

The Commission has previously adopted the Staff's adjustment to reflect the actual cost of net additions to electric plant in service other than Brunswick Unit No. 1 through December 31, 1976. It is, therefore, entirely consistent and proper to adopt the Staff's adjustment to reflect the actual cost of nuclear fuel (net) in service at December 31, 1976, in the amount of $16,946,000 rather than the adjusted June 30, 1976, level of $13,313,000 as proposed by witness Davis.

In arriving at the proper level of operating revenue deductions, as discussed hereafter, the Commission has included pro forma adjustments to reflect the effect that

Brunswick Units Nos. 1 and 2 would have on the test year level of operations had these units been in service throughout the test year. The pro forma adjustments included an adjustment to increase nuclear fuel expense applicable to Brunswick Units Nos. 1 and 2. The Commission fully recognizes that nuclear fuel represents an item of cost which the Company must replace on an annual basis (approximately) if it is to continue operation of its nuclear production facilities. Approximately 1/3 of the fuel contained in the reactor must be replaced each year. The Company's investment in nuclear fuel expended during the year will, of course, be recovered from its customers as a result of the Commission's including this item of cost in the Company's cost of service. While the Company will have recovered the entire cost of the approximate 1/3 of the spent nuclear fuel from its customers, it will not have recovered any of the cost associated with the nuclear fuel which replaces that which is spent. Therefore, on average the Company's investment in nuclear fuel will be equal to the beginning balance after fueling less 1/2 of the annual amount of amortization. Accordingly, and consistent with the adjustment to nuclear fuel expense described above, the Commission adopts the Staff's adjustment to reflect additional accumulated amortization of nuclear fuel applicable to Brunswick Units Nos. 1 and 2 of $2,263,000.

The Commission believes that there is very little, if any, likelihood that the recycling of spent nuclear fuel will become a reality in the foreseeable future. (See Evidence and Conclusions for Findings of Fact Nos. 13 and 15, discussed hereafter.) Accordingly, in arriving at the proper level of operating revenue deductions, we have included the Company's adjustments to nuclear fuel expense to reflect the higher levels of cost associated with the "throw-away" nuclear fuel cycle. Consistent with these adjustments to nuclear fuel expense, we have used $3,225,000 as the appropriate corollary adjustment to accumulated amortization of nuclear fuel.

Based upon the adjustments described above, the Commission concludes that the following calculation of nuclear fuel (net) of $24,651,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Nuclear fuel (net) in service proposed by Company witness Davis	$23,427
Staff adjustment to reflect the actual cost of Brunswick Unit No. 1 nuclear fuel at December 31, 1976	(148)
Staff adjustment to reflect the actual cost of nuclear fuel (net) in service at December 31, 1976	3,635
Staff adjustment to reflect additional accumulated amortization of nuclear fuel applicable to Brunswick Units Nos. 1 and 2	(2,263)
Total	$24,651

The final area of disagreement between the witnesses with regard to the proper level of net investment in electric plant in service and net nuclear fuel is the amount properly includable as accumulated depreciation. Staff witness Hoover testified that the proper amount of end-of-period accumulated depreciation was $250,654,000, which is $12,186,000 more than the $238,468,000 end-of-period level proposed by Company witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect depreciation expense on actual construction costs of Brunswick Unit No. 1 at December 31, 1976	$ (422)
Staff adjustment to reflect depreciation expense on net additions to plant in service for the period July 1, 1976, through December 31, 1976	(420)
Staff adjustment to reflect annualized book accumulated depreciation at December 31, 1976	13,028
Total	$12,186

In arriving at a proper level of operating revenue deductions (as discussed hereafter) which is consistent with the test year level of investment (developed and discussed previously), we have added an amount of $8,377,000 to

depreciation expense to reflect depreciation applicable to the actual construction costs of Brunswick Unit No. 1 when placed in service on March 18, 1977. We also have added an amount of $1,046,000 to depreciation expense to reflect depreciation applicable to the actual cost of net additions to electric plant in service for the period July 1, 1976, through December 31, 1976. Finally, we have added an amount of $4,152,000 to depreciation expense to annualize depreciation applicable to electric plant in service at June 30, 1976. It is, therefore, entirely consistent and proper to make the corollary adjustments to accumulated depreciation.

Based upon the adjustments described above, the Commission concludes that the following calculation of accumulated depreciation of $251,076,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)	Amount (c)
Accumulated depreciation per books at December 31, 1976		$241,939
Annualized depreciation expense developed and discussed under Evidence and Conclusions for Finding of Fact No. 16	$50,765	
Actual depreciation expense for the 12 months ended December 31, 1976, per books	41,628	9,137
Total		$251,076

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Testimony concerning the replacement cost and depreciation rates of CP&L's utility plant in service was presented by Company witness Breitling and Staff witness Curtis. Mr. Breitling of Ebasco Services, Inc., testified with regard to CP&L's trended original cost less depreciation as of June 30, 1976. The methodology used by Mr. Breitling in trending the original cost dollars (based on use of the Handy-Whitman Index of Public Utility Construction Costs) is one which is commonly used in trended cost or replacement cost studies. The depreciation factors which were used by Mr. Breitling in deducting depreciation from his replacement cost study were approved by this Commission in CP&L's last general rate case (Docket No. E-2, Sub 264) and were also recommended by Mr. Breitling for use in this rate case.

Staff witness Curtis presented his analysis of the trended original cost study and depreciation factors recommended by Company witness Breitling. Mr. Curtis substantially agreed

with the net replacement cost calculated by witness Breitling. The Commission thus concludes that the reasonable replacement cost less depreciation of CP&L's retail electric utility plant in service is $1,842,545,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Having determined that the Company's appropriate original cost less depreciation is $1,226,883,000 and that its reasonable replacement cost less depreciation is $1,842,545,000, the Commission must now determine the fair value of CP&L's net plant in service.

Company witness Davis, based upon the Commission's decisions in CP&L's last two general rate cases (Docket No. E-2, Subs 229 and 234 and Docket No. E-2, Sub 264), testified that a 2/3 weighting of net original cost and a 1/3 weighting of net replacement cost should be used. Staff witness Curtis testified that the weighting should be based upon the capital structure of CP&L. This weighting corresponds to a 64% weighting of net original cost and a 36% weighting of net replacement cost. Consistent with its decision in the prior cases, the Commission concludes that a 2/3 weighting of net original cost and a 1/3 weighting of net replacement cost is appropriate for use herein. By applying these weightings (2/3 - 1/3) to the net original cost of $1,226,883,000 and the net replacement cost of $1,842,545,000, respectively, the fair value thus derived for CP&L's utility plant in service in North Carolina is $1,432,104,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witnesses Bradshaw and Davis and Staff witness Hoover offered testimony and exhibits concerning the amount properly includable in the original cost net investment as an allowance for working capital.

The following chart presents the amounts proposed by the witnesses:

000's Omitted

Item (a)	Company Witnesses Bradshaw and Davis (b)	Staff Witness Hoover (c)
Cash (1/8 of O&M expenses excluding purchased power)	$ 28,207	$ 26,270
Minimum bank balances	6,558	6,558
Materials and supplies	50,394	49,213
Prepayments	1,575	1,114
Average tax accruals	(12,794)	(11,889)
Customer deposits	(3,131)	(2,965)
Total	$ 70,809	$ 68,301

Although the witnesses used the formula method in developing the allowance for working capital, they did not use the same period of time. For all practical purposes the Company based its determination of the allowance for working capital on the 12 months ended June 30, 1976; whereas, the Staff utilized the 12-month period ended December 31, 1976. Further, the Company proposed an adjustment of $2,419,000 to increase the level of the cash allowance for working capital over and above that provided by the formula method. The Company contends that this adjustment is necessary to reflect an additional working capital requirement which arises as a result of the increase in the amount of time allowed to CP&L's customers within which to pay their bills. Such increased time for payment (or lag in collection) resulted, according to CP&L, from the Commission's Rule 12-10, adopted on November 17, 1975.

After carefully considering the evidence presented by each witness, the Commission believes that it is inappropriate to make piecemeal adjustments to an allowance for working capital determined by use of the formula method. The Commission acknowledges that, if the formula method were a precise means of determining the allowance for working capital and if the only change in the working capital requirement of the Company, as determined by the formula method, were the increase in accounts receivable, then the adjustment as proposed by the Company might be proper. However, the Commission would be remiss if it did not point out that the formula method as a technique or tool used in estimating the allowance for working capital of a public utility has been in existence for as many as 30 years and that, in recent years, the propriety and reasonableness of this method have been challenged by reliable experts in the utility field. Without question, over the years, there have been many economic and regulatory changes which would have affected the working capital requirement of most utilities both positively and negatively. These changes may or may not have been reflected in the allowance for working capital

as determined by use of the formula method. However, absent a lead-lag study, the Commission continues to believe that the unadjusted formula method of determining the allowance for working capital is, on balance, the method that most accurately reflects a utility Company's actual working capital needs.

As previously stated, 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. Accordingly, in arriving at the test year level of working capital, the Commission will use the 12-month period ended December 31, 1976, employed by the Staff.

Based on the foregoing discussion, the Commission concludes that the following calculation of allowance for working capital of $69,384,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Cash (1/8 of O&M expenses excluding purchased power)	$ 27,353
Minimum bank balances	6,558
Materials and supplies	49,213
Prepayments	1,114
Average tax accruals	(11,889)
Customer deposits	(2,965)
Total	$ 69,384

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The fair value of CP&L's plant in service to its customers in North Carolina of $1,432,104,000 (Finding of Fact No. 8, supra) plus the reasonable allowance of $69,384,000 for working capital (Finding of Fact No. 9, supra) and an allowance of $24,651,000 for net nuclear fuel (Finding of Fact No. 6, supra) yields a reasonable fair value of CP&L's property in service to North Carolina customers of $1,526,139,000. The Commission concludes that this amount is appropriate for use in this proceeding as the fair value of CP&L's property used and useful in providing the service rendered to the public within this State.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Davis and Staff witness Hoover presented testimony and exhibits concerning the appropriate level of

operating revenues to be included in the test year level of operations.

The following chart summarizes the amount which each of the witnesses contends is proper:

000's Omitted

Item (a)	Company Witness Davis (b)	Staff Witness Hoover (c)
Operating revenues	$454,149	$462,918

The difference of $8,769,000 in the level of operating revenues as proposed by the witnesses arises from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to annualize industrial revenues to an end-of-period level - June 30, 1976	$ 1,333
Staff adjustment to reflect the annualized level of operating revenues at December 31, 1976	8,619
Staff adjustment to reflect revised weather normalization adjustment	(110)
Staff adjustment to reflect revenue effect of Engineering Staff's adjustment to fuel expense	6,826
Company adjustment to reflect "throw-away" nuclear fuel cycle	(7,899)
Total	$ 8,769

Company witness Davis calculated the end-of-period (June 30, 1976) level of industrial revenues by using an estimated growth rate of 8.26%, which is the growth rate presently utilized by the Company in its long-range financial and operational forecasts. Staff witness Hoover, in calculating the June 30, 1976, annualized level of industrial revenues, used the actual growth rate of 9.74%, which was experienced by the Company during the 12-month period ended June 30, 1976. The methodology employed by the witnesses in calculating the adjustment was the same, the difference being the 8.26% rate of growth used by witness Davis as compared to the 9.74% rate of growth used by witness Hoover.

The purpose of the "test year concept" in the fixing of rates, including the appropriate level of test year revenues to be utilized, is to arrive at an annual level of revenues and costs which is representative of the level the Company can be expected to experience on an ongoing basis. This is the purpose for making revenue annualization adjustments. In this instance, CP&L's annual level of test year revenues is properly based on the number of customers and the level of customer usage actually experienced at June 30, 1976, as calculated by witness Hoover. The implication inherent in witness Davis' adjustment is that the Company has experienced, or expects to experience, a decline in the test year level of industrial sales. There is no evidence in the record to support this contention; indeed, the evidence of all parties shows that the level of industrial sales continues to increase rather than decrease. Based on the foregoing, the Commission concludes that the Staff's adjustment of $1,333,000 to annualize industrial revenues to a June 30, 1976, level is proper and should be adopted for use herein.

The Commission has previously adopted the Staff's adjustment to include in the test year level of investment the actual cost of net plant additions, other than Brunswick No. 1, through December 31, 1976. In keeping with the "matching concept" in income determination and the "test year concept" in the fixing of rates, it is appropriate to include in the test year level of operations the attendant increase in revenues which is attributable to customer growth actually experienced by the Company through December 31, 1976. Accordingly, the Commission adopts the Staff's adjustment of $8,619,000 to reflect the annualized level of operating revenues at December 31, 1976.

Witness Hoover testified that the Staff's adjustment of $110,000 to decrease the test year level of operating revenues was required to base the weather normalization adjustment, as proposed by the Company, on present rates and to exclude surcharge revenues applicable to deferred fuel costs from the test year. These revenues were inadvertently included by the Company. The Commission concludes that this adjustment is valid and proper. Accordingly, we adopt the Staff's adjustment of $110,000 to decrease the weather normalization adjustment proposed by the Company.

The Accounting Staff's adjustment of $6,826,000 to increase operating revenues is required to give recognition to the fuel clause (G.S. 62-134(e)) revenues which would be realized as a result of the Engineering Staff's adjustments to increase fuel expense. The Commission, as will be discussed subsequently, has adopted the Engineering Staff's adjustments to fuel expense. It is, therefore, consistent and proper to adopt the Accounting Staff's adjustment, which includes the related fuel clause revenues as an offset to the adjustments for increased fuel expense.

Company witness Davis testified that his adjustment of $7,899,000 was required to reflect the fuel clause revenue effect of the Company's decision to begin providing for additional fuel cost based on the assumption that there will be no reprocessing of spent nuclear fuel. While the Commission, as will be discussed subsequently in Evidence and Conclusions for Findings of Fact Nos. 13 and 15, has adopted the Company's adjustment to increase fuel expense to reflect the higher costs associated with the "throw-away" nuclear fuel cycle, we do not believe that these costs are properly includable in fuel costs subject to adjustment by means of the fuel charge rider. Therefore, it would be inappropriate for the Commission to include the Company's adjustment of $7,899,000 in arriving at the test year level of operating revenues under present rates.

Based upon the adjustments described above, the Commission concludes that the following calculation of operating revenues of $462,918,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Operating revenues proposed by Company witness Davis	$454,149
Staff adjustment to annualize industrial revenues to an end-of-period level - June 30, 1976	1,333
Staff adjustment to reflect the annualized level of operating revenues at December 31, 1976	8,619
Staff adjustment to reflect revised weather normalization adjustment	(110)
Staff adjustment to reflect revenue effect of Engineering Staff's adjustment to fuel expense	6,826
Company adjustment to reflect "throw-away" fuel cycle	(7,899)
	$462,918

NOTE: As a result of having included pro forma adjustments to reflect Brunswick Unit No. 1 in the test year level of operations, the test year level of revenues has been reduced approximately $17,540,000 below the level which would be realized under present base rates excluding operation of the fuel charge rider. This results from the effect of Brunswick Unit No. 1's lower cost nuclear generation which would have displaced higher cost fossil generation had this unit

been in service throughout the test year. Thus, the Company in the test year, as proformed, would experience a negative fuel charge (refund) of approximately $17,540,000 under present rates.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for this Finding of Fact is contained in the Company's prefiled data and minimum filing requirements exhibits, which accompanied the original application for general rate relief, and the testimony of Commission Staff witness Williams. The Staff's evidence consisted of an analysis of its investigation of CP&L's fuel procurement activities, including its review of the Company's long-term coal contracts and "spot" coal procurement activities.

Staff witness Williams testified that the Company's fuel procurement activities appeared reasonable and within the guidelines adopted by the Commission, with the exception of market price adjustment provisions included in three of CP&L's 21 long-term coal contracts.

From the evidence presented, the Commission concludes that CP&L's fuel procurement activities and purchase policies are reasonable and are in accordance with practices heretofore reviewed and approved by this Commission. The three contracts which include market price provisions should be closely monitored in the future to determine their cost performance relative to CP&L's other long-term coal contracts.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence on the proper base fuel cost level to be incorporated into the basic rate design and into the proper G.S. 62-134(e) fuel cost adjustment formula was contained in the testimony and exhibits offered by Company witness Davis and Staff witness Williams.

Company witness Davis testified that CP&L had included adjustments to revenues, expenses and rate base to reflect the full annualization of Brunswick No. 1 Nuclear Generating Unit at a 75% capacity factor during the test period. He further testified that the design of the requested or proposed rates reflected the base fuel cost level approved in Docket No. E-2, Sub 264, CP&L's last general rate case. Such base fuel cost approved in that case was 8.50 mills per kilowatt-hour. Witness Davis recommended a continuation of the present fuel adjustment formula, including such base fuel cost levels, without modification.

Staff witness Williams testified that an adjustment should be made to the base fuel cost level incorporated into the basic rates and fuel cost adjustment formula to reflect the lower average fuel cost resulting from the normal operations of Brunswick No. 1, which were proformed into the test year.

Witness Williams recommended a base fuel cost level of 0.689¢ per kilowatt-hour. Such level was calculated by using normalized test year operations, annualized to year-end levels, with the operations of the Brunswick No. 1 Nuclear Unit proformed into such operations at a representative 65% load factor. He further stated that additional adjustments may be required in order to reflect the handling of initial actual nuclear fuel costs, estimated costs and salvage values of reprocessed nuclear fuel, and the permanent disposal costs of nuclear fuel.

Based upon the foregoing testimony and exhibits, the Commission concludes that the base fuel cost level of 0.850¢ per kilowatt-hour proposed by CP&L for incorporation into the basic rate design and the recommended fuel cost adjustment formula [G.S. 62-134(e) and Commission Rule R1-36] reflects fuel cost levels approved in the Company's last general rate case, Docket No. E-2, Sub 264, and does not reflect the more current, lower average fuel cost level resulting from the normalized and annualized operations of the Brunswick No. 1 Nuclear Unit. The proper base fuel cost level, including the actual initial cost of nuclear fuel, based upon the adjusted test year cost levels, which is appropriate for use in this proceeding, is 0.680¢ per kilowatt-hour and the basic rates and fuel cost adjustment formula proposed by CP&L should be adjusted accordingly.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The Commission takes judicial notice of CP&L's application in Docket No. E-2, Sub 308 for an adjustment to its basic rates based solely on the cost of fuel, pursuant to G.S. 62-134(e). Such adjustment was requested to become effective on all bills rendered on and after July 1, 1977. The Commission also takes notice of its Order Approving Modified Decrease in Docket No. E-2, Sub 308 dated June 22, 1977.

The rates herein approved contain a different and lower base fuel cost level (0.680¢/KWH) than the base fuel cost level (0.850¢/KWH) approved in the basic rates in Docket No. E-2, Sub 264, which are currently in effect. The rates herein approved also embody the estimated disposal cost of nuclear fuel within the basic rate structure, contemplating consideration of only the actual initial cost of nuclear fuel as the nuclear fuel cost component of the fuel cost and generation statistics to be utilized in G.S. 62-134(e) proceedings.

Adjusting the nuclear fuel cost statistics accordingly, for the 3-month test period in Docket No. E-2, Sub 308, and making appropriate changes in the computations of the adjustment factor to reflect the change in the base fuel cost level result in a credit of 0.055¢/KWH. This is the proper and appropriate Approved Fuel Charge that should be applied to the basic rates approved herein during the July 1977 billing month.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for this Finding of Fact is contained in the testimony and exhibits of Company witnesses Smith, Davis and Bradshaw and the testimony of Staff witnesses Williams and Hoover.

Company witness Smith offered evidence on the major costs involved in determining total nuclear fuel expense, including the purchase cost of uranium, conversion, enrichment, reconversion, reprocessing, disposal of wastes and costs of storage. He further testified that under present fuel charges nuclear fuel costs are being calculated upon the basis that reprocessing would be available at least by 1980. Mr. Smith recommended that the estimated cost of reprocessing nuclear fuel be deleted from fuel expense, that credits for the value of recovered uranium and plutonium materials no longer be included and that the cost of permanent disposal of the radioactive materials be included in their place. He testified that his recommendation was based upon the following facts: (a) there is currently no licensed reprocessing facility in operation in this country; (b) the Nuclear Regulatory Commission has not approved the use of plutonium in commercial facilities; and (c) the current Federal Administration's stated policies are to disallow commercial reprocessing of nuclear fuel for the foreseeable future. He stated that the net result of these recommended changes would increase the average nuclear fuel expense in the test year in this proceeding by 7.43¢ per MBtu.

Company witness Bradshaw testified on two accounting adjustments required to implement Mr. Smith's recommendations. He stated that a test year adjustment for the amortization of spent nuclear fuel assemblies (5-year amortization) in the amount of $1,007,630 per year and an adjustment for the disposal cost of those assemblies in the amount of $1,318,980 per year (10-year amortization) would be required. Company witness Davis testified that implementation of Mr. Smith's recommendations would increase the total test year nuclear fuel expense by $11,056,493.

Staff witness Williams testified, based upon recent statements made by President Carter and others involved in the design of the Federal Administration's energy policies, that there were no presently licensed and certificated facilities for nuclear reprocessing and none would likely be available in the near future. He stated that, at present, there is no longer any justification for continuing CP&L's present accounting policies regarding nuclear fuel costs which rest on the assumption that reprocessing will be available and that he was in agreement with witness Smith's testimony and witness Bradshaw's revised testimony on this point. He contended that these additional nuclear fuel costs should be handled through the basic rates in the same manner as fly ash and should not be included in the G.S. 62-134(e) proceedings. He concluded that, if the "throw-away"

nuclear fuel cycle is not allowed at this time, the full costs of today's energy would not be recovered from present customers but would have to be recovered from future users.

Staff witness Hoover testified that, from his viewpoint, he would not make the adjustments proposed by the Company witnesses for the "throw-away" nuclear fuel cycle because he felt the basis for the Company's position is too speculative on which to base such a large accounting adjustment. He conceded that, if the Commission determined that there would be no recycling, the proposed adjustments would be proper.

Based on the foregoing evidence, the Commission concludes that, in light of the current Federal Administration's stated policies to disallow nuclear fuel reprocessing, it is more reasonable to include, in the total cost of nuclear fuel, the estimated cost of permanent disposal of the radioactive materials resulting from nuclear plant operations ("throw-away" fuel cycle) rather than the estimated costs and salvage values associated with nuclear fuel reprocessing previously utilized. The charge to recover the cost of permanent disposal of nuclear fuel wastes should be a separately identifiable component of the basic rates, and the funds collected within the basic rates applicable to these costs should be recorded in a separate subaccount of Account 120.5, accumulated provision for amortization of nuclear fuel assemblies. Should the reprocessing of nuclear fuel waste be permitted prospectively, amounts recorded in this account shall be amortized as a reduction to the cost of service over a reasonable period of time.

The costs associated with permanent disposal of the nuclear fuel wastes, based on test year operations, are 0.04834¢/KWH for permanent disposal of the nuclear fuel consumed during the test year, 0.00377¢/KWH for the 5-year amortization of spent nuclear fuel assemblies and 0.00494¢/KWH for the disposal cost (10-year amortization) of the spent nuclear fuel assemblies. These are the levels of cost properly includable in the basic rate design to recover permanent disposal of nuclear fuel wastes. Each of these charges should remain in effect until further Order of the Commission, except that in no event should the 0.00377¢/KWH charge be allowed to continue more than 5 years or the 0.00494¢/KWH charge be allowed to continue more than 10 years. Monies collected by these charges incorporated into the basic rates should be accumulated in a special reserve account as discussed above.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Company witnesses Bradshaw and 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 the witnesses:

000's Omitted

Item (a)	Company Witnesses Bradshaw and Davis (b)	Staff Witness Hoover (c)
Net operating and maintenance expenses	$205,219	$209,073
Depreciation	51,184	50,343
Taxes other than income	41,331	40,088
Income taxes - State	2,116	4,146
Income taxes - Federal	18,525	20,658
Investment tax credit - net	14,744	14,354
Deferred income taxes - net	22,300	22,943
Interest on customer deposits	146	149
Total	$355,565	$361,754

As shown in the above chart, the witnesses disagree as to the amount properly includable as net operating and maintenance expenses. Company witness Davis testified that the test year level of net operating and maintenance expenses was $205,219,000. Staff witness Hoover testified that the test year level of net operating and maintenance expenses was $209,073,000, which is $3,854,000 more than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect additional O&M expenses related to Company and Staff revenue normalization and annualization adjustments	$ 7,515
Staff adjustment to reflect annualization of O&M expenses exclusive of fuel and wages to December 31, 1976	2,223
Staff adjustment to normalize costs associated with abandoned plant sites	(125)
Staff adjustment to normalize costs associated with the Commission ordered management audit	(240)
Staff adjustment to reflect operation of Brunswick Unit No. 1 at a 65% capacity factor	3,641
Company adjustment to reflect "throw-away" nuclear fuel cycle	(8,825)
Company adjustment to reflect additional security personnel at nuclear production facilities	(335)
Total	$ 3,854

As discussed in Evidence and Conclusions for Finding of Fact No. 10, the Commission has adopted the Staff's adjustments to normalize and annualize the test year level of operating revenues. It is, therefore, consistent and proper to include in the test year level of expenses the changes in the levels of cost which would result from this increased production and sale of electric energy. Accordingly, the Commission adopts the Staff's adjustment of $7,515,000, which includes in the test year level of expenses the costs associated with the revenue normalization and annualization adjustments.

Staff witness Hoover proposed an adjustment of $2,223,000 to annualize operating and maintenance expenses, exclusive of fuel and wages, to the December 31, 1976, level. This adjustment gives recognition to the increase in prices experienced by the Company through December 31, 1976, not provided for in other adjustments. As previously discussed, the Commission has adopted both revenue and expense adjustments to annualize the test year level of operations to December 31, 1976. It is, therefore, entirely consistent and appropriate to adopt the Staff's adjustment of $2,223,000 in order to annualize the effect of these price increases through December 31, 1976.

Staff witness Hoover proposed an adjustment of $125,000 to normalize the test year level of operating and maintenance expenses with regard to costs associated with abandoned plant sites and an adjustment of $240,000 to normalize the test year level of operating and maintenance expenses with regard to costs associated with the management audit of the Company, as ordered by the Commission in April of 1976. The Company had proposed to include, in the test year level of expenses, the cost associated with the equivalent of 1-1/6 abandoned plant sites and the full cost of the management audit. As previously discussed, the purpose of utilization of the "test year concept" in the fixing of rates is to arrive at an annual level of revenues and costs which is representative of the level the Company can be expected to experience on an ongoing basis.

In keeping with the "test year concept" and in view of the facts that the Company has experienced only three (approximately) abandoned plant sites in the last 25 years and that the Commission is precluded by law from ordering a full and complete management audit of any public utility any more often than once every five years, we believe that the adjustments proposed by the Staff are proper. Accordingly, the Commission adopts the Staff's adjustment of $125,000 to normalize costs associated with abandoned plant sites and the Staff's adjustment of $240,000 to normalize costs associated with the management audit of the Company.

The Commission has adopted the proposed Engineering Staff's adjustment to reflect the operation of Brunswick Unit No. 1 during the test year at a 65% capacity factor or level of operations. It is, therefore, consistent and proper to reflect the related increase in the test year level of fuel expense. Accordingly, the Commission adopts the Staff's adjustment in the amount of $3,641,000.

After carefully considering the evidence presented with regard to the "throw-away" nuclear fuel cycle, especially the Federal Government's stated position on reprocessing, the Commission is of the opinion that the weight of the evidence, at this time, supports the contention that there will be no reprocessing of spent nuclear fuel. Therefore, the Commission has calculated, and will include, in the test year the additional cost associated with the "throw-away" nuclear fuel cycle of $8,329,000.

Company witness Bradshaw presented an adjustment of $335,000 to reflect the increased cost associated with additional security personnel which will be required at the Company's nuclear production facilities. As previously stated, it is the Commission's duty to consider relevant, material and competent evidence showing changes in the level of costs incurred by the utility 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. Therefore, in arriving at the test year level of operating and maintenance expense, the Commission

adopts the Company's adjustment of $335,000 to include costs associated with the additional security personnel.

Based on the foregoing discussion, the Commission concludes that the following calculation of operating and maintenance expense of $217,737,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Net operating and maintenance expense proposed by witness Davis	$205,219
Staff adjustment to reflect additional O&M expenses related to Company and Staff revenue normalization and annualization adjustments	7,515
Staff adjustment to reflect annualization of O&M expenses exclusive of fuel and wages to December 31, 1976	2,223
Staff adjustment to normalize costs associated with abandoned plant sites and management audit	(365)
Staff adjustment to reflect operation of Brunswick Unit No. 1 at a 65% capacity factor	3,641
Commission adjustment to costs associated with the "throw-away" nuclear fuel cycle as proposed by the Company ($8,825 - $8,329)	(496)
Total	$217,737

The next area of disagreement between the witnesses concerns depreciation expense. Company witness Davis testified that the appropriate level of depreciation expense was $51,184,000. Staff witness Ecover testified that the appropriate level of depreciation expense was $50,343,000, which is $841,000 less than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect depreciation on actual construction cost of Brunswick Unit No. 1 at December 31, 1976	$421
Staff adjustment to reflect depreciation on actual cost of net additions to utility plant in service through December 31, 1976	420
Total	$841

As previously discussed, we have adopted Company witness Davis' adjustment to reflect in the test year level of investment the actual construction costs of Brunswick Unit No. 1 when placed in service on March 18, 1977, and Staff witness Hoover's adjustment to reflect the actual cost of net additions to utility plant in service, other than Brunswick Unit No. 1, through December 31, 1976. Accordingly, it would not be proper to adopt the Staff's adjustment to reflect depreciation on the actual construction costs of Brunswick Unit No. 1 at December 31, 1976. However, it is entirely consistent and proper to adopt the Staff's adjustment to reflect depreciation on actual costs of net additions to utility plant in service through December 31, 1976.

Based upon the adjustments described above, the Commission concludes that the following calculation of depreciation expense of $50,765,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Depreciation expense proposed by witness Davis	$51,184
Staff adjustment to reflect depreciation on actual cost of net additions to utility plant in service through December 31, 1976	(419)
Total	$50,765

The next area of disagreement between the witnesses concerns taxes other than income. Company witness Davis testified that the appropriate level of taxes other than income was $41,331,000. Staff witness Hoover testified that the appropriate level of taxes other than income was $40,088,000, which is $1,243,000 less than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect gross receipts tax applicable to operating revenue adjustments	$ 1,000
Company adjustment to reflect "throw-away" nuclear fuel cycle	(474)
Staff adjustment to reflect property taxes on actual construction costs of Brunswick Unit No. 1 at December 31, 1976	(34)
Staff adjustment to reflect property taxes on utility plant in service at December 31, 1976, based on 1976 property tax rates	(1,735)
Total	$(1,243)

With regard to gross receipts tax, as previously discussed, the Commission has adopted the related revenue adjustments proposed by the Staff and has not adopted the related revenue adjustment proposed by the Company to give effect to the "throw-away" nuclear fuel cycle. It is, therefore, consistent and proper to adopt the Staff's gross receipts tax adjustment of $1,000,000 and to reject the Company's gross receipts tax adjustment of $474,000.

With regard to property taxes, as previously discussed, we have adopted Company witness Davis' adjustment to reflect, in the test year level of investment, the actual construction costs of Brunswick Unit No. 1 when placed in service on March 18, 1977, and witness Hoover's adjustment to reflect the actual cost of net additions to utility plant in service through December 31, 1976. Accordingly, it is consistent and proper to base the related test year level of property tax expense on these respective levels of cost. Company witness Bradshaw stated during cross-examination that had the 1976 effective property tax rate been available at the time of the Company's filing in this docket, he, too, would have used the 1976 tax rate in his calculation of the adjustment to property tax expense. Therefore, as proposed by witness Hoover, the Commission believes that the 1976 effective property tax rate should be used in the calculation of property tax expense applicable to utility plant in service at December 31, 1976.

Based on the foregoing discussion, the Commission concludes that the following calculation of taxes other than income is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Taxes other than income proposed by witness Davis	$41,331
Staff adjustment to reflect gross receipts tax applicable to operating revenue adjustments	1,000
Company adjustment to reflect "throw-away" nuclear fuel cycle	(474)
Staff adjustment to reflect property taxes on utility plant in service at December 31, 1976, based on 1976 property tax rates	(1,735)
Total	$40,122

The next area of disagreement between the witnesses concerns current State income tax expense. Company witness Davis testified that the appropriate level of State income tax expense was $2,116,000. Staff witness Hoover testified that the appropriate level was $4,146,000, which is $2,030,000 more than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to exclude the tax effect of a prior period operating loss carry-forward	$1,644
Staff adjustment to the allocation of the tax effect of the Company's depreciation expense adjustment	(60)
State income tax effect of the difference between accounting and pro forma adjustments to revenues and expenses proposed by the witnesses	446
Total	$2,030

The propriety of Staff witness Hoover's adjustment of $1,644,000 to exclude the tax effect of a prior period operating loss carry-forward from the test year level of operations is self-evident.

With regard to witness Hoover's adjustment to the allocation of the tax effect of the Company's depreciation expense adjustment, the Commission believes that the basis for allocation of the tax effect should be consistent with allocation of the adjustment. It is, therefore, appropriate and reasonable to adopt the Staff's adjustment in the amount of $60,000.

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 current State income tax expense which we conclude is the proper amount for inclusion herein.

000's Omitted

Item (a)	Amount (b)
Current State income tax expense proposed by witness Davis	$2,116
Tax effect of Commission adjustments to the level of operating revenues proposed by the Company	526
Tax effect of Commission adjustments to the level of operating revenue deductions proposed by the Company	(784)
Tax effect of Commission adjustment to allocation of interest expense	126
Adjustment to exclude the tax effect of a prior period operating loss carry-forward	1,644
Adjustment to the allocation of the tax effect of the Company's depreciation expense adjustment	(60)
Total	$3,568

The next area of disagreement between the witnesses concerns Federal income tax expense. Company witness Davis testified that the appropriate level of current Federal income tax expense was $18,525,000. Staff witness Hoover testified that the appropriate level was $20,658,000, which is $2,133,000 more than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Federal income tax effect of the difference between accounting and pro forma adjustments to revenues and expenses proposed by the witnesses	$2,564
Staff adjustment to the allocation of the tax effect of the Company's depreciation expense adjustment	(431)
Total	$2,133

As previously discussed, the Commission has adopted the Staff's adjustment to the allocation of the tax effect of the Company's depreciation expense adjustment. As previously stated, the Commission has not adopted all of the components of taxable income proposed by either witness. Therefore, it becomes necessary for the Commission to make the following calculation of current Federal income tax expense, which we conclude is appropriate for inclusion in this case.

000's Omitted

Item (a)	Amount (b)
Current Federal income tax expense proposed by witness Davis	$18,525
Tax effect of Commission adjustments to the level of operating revenues proposed by the Company	4,209
Tax effect of Commission adjustments to the level of operating revenue deductions proposed by the Company	(7,006)
Tax effect of Commission adjustment to allocation of interest expense	1,007
Adjustment to Company allocation of tax effect of depreciation expense adjustment	(431)
Total	$16,304

The next area of disagreement between the witnesses concerns the investment tax credit - net. Company witness Davis testified that the appropriate level was $14,744,000. Staff witness Hoover testified that the appropriate level was $14,354,000, which is $390,000 less than that proposed

by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Staff adjustment to reflect annual amortization of estimated investment tax credit applicable to Brunswick Unit No. 1 and other plant additions through December 31, 1976	$ 574
Staff adjustment to exclude amortization of the pre-1971 investment tax credit which was fully amortized at June 30, 1976	(184)
Total	$ 390

As discussed subsequently in developing the Company's pro forma capital structure, the Commission has included as common equity the estimated investment tax credit applicable to Brunswick Unit No. 1 and other plant additions through December 31, 1976. It is, therefore, entirely consistent and proper to include the related amortization of $574,000 in the test year cost of service.

Staff witness Hoover testified that the pre-1971 investment tax credit was fully amortized at June 30, 1976, and proposed an adjustment to exclude this amortization from the test year level of expense. The Commission believes that this normalization adjustment is in keeping with utilization of the "test year concept" in the fixing of rates. Accordingly, we adopt the Staff's adjustment of $184,000 to exclude, from the approved test year level of expense, amortization of the pre-1971 investment tax credit.

Based on the foregoing discussion, the Commission concludes that the Staff's adjusted level of investment tax credit - net of $14,354,000 is appropriate for use herein.

The next area of disagreement between the witnesses concerns deferred income taxes. Company witness Davis testified that the appropriate level of deferred income taxes was $22,300,000. Staff witness Hoover testified the appropriate level was $22,943,000, which is $643,000 more than that proposed by witness Davis. This difference results from the following:

000's Omitted

Item (a)	Amount (b)
Deferred income tax effect of the difference between Company and Staff tax and book depreciation expense applicable to Brunswick Unit No. 1	$ (347)
Deferred income tax effect of the difference between Company and Staff tax and book depreciation expense applicable to other plant additions	1,045
Staff adjustment to the Company's allocation of the deferred income tax effect of the Company's depreciation expense adjustment	(55)
Total	$ 643

The disagreement between the witnesses (arising from the differences between tax and book depreciation expense applicable to Brunswick Unit No. 1 and other net plant additions) is a result of the different levels of cost used by the witnesses to reflect the additional investment in the test year level of operations. The propriety of the different levels of investment proposed by the witnesses has been previously discussed.

With regard to the allocation of deferred income taxes, the Commission believes that the basis of allocation of deferred tax expense should be consistent with the allocation of the expense which brings rise to the deferred tax. Accordingly, we adopt the Staff's adjustment of $55,000 to the Company's allocation of deferred income tax expense.

Based on the foregoing discussion, the Commission concludes that the following calculation of deferred income tax expense of $23,168,000 is appropriate for use herein:

000's Omitted

Item (a)	Amount (b)
Deferred income tax expense per books June 30, 1976	$ 4,008
Company adjustment to eliminate fuel deferral	5,873
Company adjustment for income tax normalization	6,392
Staff adjustment to reflect deferred income tax expense applicable to plant additions through December 31, 1976	1,045
Staff adjustment to the Company's allocation of deferred income tax expense	(55)
Commission adjustment for Brunswick income tax normalization	5,905
Total	$23,168

The final area of disagreement between the witnesses with regard to operating revenue deductions concerns interest on customer deposits. This difference of $3,000 (witness Hoover's $149,000 - witness Davis' $146,000) results from the different levels of customer deposits used by the witnesses in developing what they considered to be the Company's appropriate allowance for working capital. Consistent with the Commission's findings in this regard, we conclude that the proper level of interest on customer deposits for use herein is $149,000.

Finally, the Commission concludes, based on the entire discussion in this section, that the appropriate level of operating revenue deductions for use in this proceeding is $366,167,000, calculated as follows:

Item (a)	Amount (b)
Net operating and maintenance expenses	$217,737,000
Depreciation	50,765,000
Taxes other than income	40,122,000
Income taxes - State	3,568,000
Income taxes - Federal	16,304,000
Investment tax credit - net	14,354,000
Deferred income taxes - net	23,168,000
Interest on customer deposits	149,000
Total	$366,167,000

EVIDENCE AND CONCLUSIONS FOR
FINDINGS OF FACT NOS. 17, 18, AND 19

The capital structure recommended by the Staff, as reflected in the testimony and exhibit of Staff witness Hoover, is based on the Company's actual capital structure at December 31, 1976, adjusted to include additional deferred income taxes and investment tax credit arising from pro forma adjustments to utility plant in service. Consistent with adjustments previously adopted and discussed, the Commission believes that the original cost capital structure of 45.29% debt, 13.79% preferred stock, 35.95% common equity and 4.97% cost-free capital presented by the Staff is appropriate for use herein.

When the excess of the fair value of CP&L's property, or rate base, over its original cost net investment (in the amount of $205,221,000) is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

Item	Percent
Debt	39.20%
Preferred stock	11.94%
Common equity	44.56%
Cost-free capital	4.30%
Total	100.00%

Company witness Langum calculated the embedded costs of CP&L's debt and preferred stock to be 7.72% and 8.01%. Attorney General witness Carleton and Staff witness Currin found the costs of debt and preferred stock to be 7.71% and 8.01%, respectively. The Commission concludes that the embedded costs of debt and preferred stock are 7.71% and 8.01%, respectively.

Company witness Langum recommended a return on equity of 14.25%, with two studies cited as support. For his first study, Dr. Langum computed the average return on equity allowed in 39 orders of original cost jurisdictions in 1975 and 1976. Claiming that the cost of equity was higher in fair value jurisdictions, he then added a .75% premium to his 13.50%, which yielded 14.25%.

For his second study, Dr. Langum calculated the average returns earned on equity by 38 utilities operating in fair value jurisdictions for each year 1971 to 1975. Of the original 190 company years, Dr. Langum first excluded 107 company years for reasons of "inadequate investment stature" or "substandard earnings." Of the remaining 83 comparison years, 36 of them represented Texas utilities.

Compared to the remaining companies in the sample, CP&L had, in general, a slightly lower equity ratio. Witness Langum contends that, for any given utility, its cost of

debt and its total cost of capital are constant and independent of the capital structure. The result of this assumption is that, as the equity ratio decreases, the cost of equity increases exponentially. Witness Langum then proceeded to "adjust" the return on equity for his sample companies to a "comparable" return based on CP&L's equity ratio. The resultant adjusted average for 1975 was 14.78% with Texas utilities included, 13.78% with Texas utilities excluded. Witness Langum claimed that the cost of equity to utilities in general, and to CP&L in particular, actually increased since 1974-1975, and, thus, even the 13.78% for the non-Texas utilities would have increased significantly, thus supporting his 14.25% recommendation.

The Attorney General's witness Carleton recommended a return on equity of 13.50%, based on his application of the DCF (Discounted Cash Flow) technique to CP&L and other comparison utilities. His application of the DCF to CP&L resulted in an indicated cost of equity of 13.00%. Dr. Carleton then applied the DCF to all Moody's Baa electric utilities, regardless of their Standard and Poor's rating. After eliminating all of the estimated costs of equity which were below 11.39%, Dr. Carleton then averaged the remaining costs of equity. He found the average to be 14.4%. However, his data did not include 1976, so Dr. Carleton then made a downward adjustment of .6%, to reflect his perception of the decrease in capital costs from 1975 to 1976. Witness Carleton concluded that CP&L's cost of equity "can be safely estimated as being between 13 and 13.8%," with 13.5% being his best recommendation.

Staff witness Currin recommended a return on equity of 12.91%. His application of the DCF to CP&L indicated a bare cost of equity of 12.18%. With an allowance for issuance expenses based on historical experience and an allowance for market pressure based upon a study of the relative positions, over time, of the CP&L stock price vs. the Standard and Poor's Utility Index, Mr. Currin found the full cost of CP&L's equity to be 12.91%. An identical DCF was then applied to Duke Power Company to check for consistency of results. Duke's cost of equity was found to be approximately .34% less than CP&L, which Mr. Currin concluded was reasonable and consistent with his recommendation of 12.91% for CP&L.

After considering all relevant testimony, the Commission concludes that a return on book common equity of 13.25% is fair and reasonable.

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 CP&L's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of CP&L's capital structure. Considering the current investment markets in which CP&L 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 8.20% on the fair value of CP&L's property used and useful in rendering electric utility service to its customers in North Carolina is just and reasonable. Such a return on fair value will produce a return of 9.47% 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 8.20% multiplied by the fair value rate base is 13.57%.

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, given efficient management, to attract sufficient debt and equity capital from the market to discharge its obligations, including its dividend obligation, and to achieve and maintain a high level of service to the public.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The following schedules 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 schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

SCHEDULE I
CAROLINA POWER & LIGHT COMPANY
DOCKET NO. E-2, SUB 297
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN UNDER PRESENT RATES
TWELVE MONTHS ENDED JUNE 30, 1976
(ADJUSTED FOR SUBSEQUENT KNOWN CHANGES)
000's OMITTED

Line No.	Item (a)	Amount (b)
1.	Operating Revenues	
2.	Net operating revenues	$ 462,918
3.	Operating Revenue Deductions	
4.	Net operation and maintenance	217,737
5.	Depreciation	50,765
6.	Taxes other than income	40,122
7.	Income taxes - State	3,568
8.	Income taxes - Federal	16,304
9.	Investment tax credit - net	14,354
10.	Deferred income taxes - net	23,168
11.	Interest on customer deposits	149
12.	Total revenue deductions	366,167
13.	Operating income for return	$ 96,751
14.	Original Cost Net Investment	
15.	Electric plant in service	$1,477,959
16.	Net nuclear fuel	24,651
17.	Less: Accumulated depreciation	251,076
18.	Net electric plant	1,251,534
19.	Allowance for Working Capital	
20.	Cash allowance	33,911
21.	Materials and supplies	49,213
22.	Prepayments	1,114
23.	Less: Accrued taxes	11,889
24.	Customer deposits	2,965
25.	Total working capital allowance	69,384
26.	Total original cost net investment	$1,320,918
27.	Fair value rate base	$1,526,139
28.	Fair value rate of return	6.34%

SCHEDULE II
CAROLINA POWER & LIGHT COMPANY
DOCKET NO. E-2, SUB 297
NORTH CAROLINA RETAIL OPERATIONS
CALCULATION OF APPROVED INCREASE IN BASE RATES REVENUE
TWELVE MONTHS ENDED JUNE 30, 1976
(ADJUSTED FOR SUBSEQUENT KNOWN CHANGES)
000's OMITTED

Line No.	Item (a)	Amount (b)
1.	Fair value rate base	$1,526,139
2.	Fair rate of return	8.20%
3.	Operating income requirement (L1 x L2)	125,143
4.	Operating income under present rates 1/	96,751
5.	Operating income deficiency (L3 - L4)	28,392
6.	Retention factor 2/	.459472
7.	Gross revenue requirement in addition to the pro forma test year level of revenue (L5 ÷ L6)	61,793
8.	Effect of fuel charge rider on pro forma base rates revenue 3/	(17,540)
9.	Approved increase (L7 - L8)	$ 44,253

1/ Schedule I, Line 13, Column (b)

2/

Gross revenues	1.000000
Gross receipts tax	.060000
State income tax (.94 x .06)	.056400
Federal income tax (.88360 x .48)	.424128
Retention factor	.459472

3/ Calculated by the Commission

SCHEDULE III
CAROLINA POWER & LIGHT COMPANY
DOCKET NO. E-2, SUB 297
NORTH CARCLINA RETAIL OPERATIONS
RETURN ON FAIR VALUE COMMON EQUITY
TWELVE MONTHS ENDED JUNE 30, 1976
(ADJUSTED FOR SUBSEQUENT KNOWN CHANGES)
000's OMITTED

Line No.	Item (a)	Capitalization Amount (b)	Capitalization Ratio % (c)	Embedded Cost Or Return On Common Equity % (d)	Net Operating Income For Return (e)
1.	PRESENT RATES - FAIR VALUE RATE BASE				
2.	Long-term debt	$ 598,244	39.20	7.71	$ 46,125
3.	Preferred stock	182,154	11.94	8.01	14,591
4.	Common equity				
5.	Book $474,870				
6.	Fair Value Increment 205,221	680,091	44.56	5.30	36,035
7.	Cost-free	65,650	4.30	-	-
8.	Total	$1,526,139	100.00	-	$ 96,751
9.	APPROVED RATES - FAIR VALUE RATE BASE				
10.	Long-term debt	$ 598,244	39.20	7.71	46,125
11.	Preferred stock	182,154	11.94	8.01	14,591
12.	Common equity				
13.	Book $474,870				
14.	Fair Value Increment 205,221	680,091	44.56	9.47	64,427
15.	Cost-free	65,650	4.30	-	-
16.	Total	$1,526,139	100.00	-	$125,143

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

The evidence for this Finding of Fact was contained in the testimony and exhibits of Company witness Davis and Staff witness Tucker. Company witness Davis testified that the results of the retail cost allocation study for the period ending June 30, 1976, was used as a guide in the distribution of the requested rate increase among customer

classes. He stated that the Company's objective was to design rates so as to produce a more uniform rate of return among retail customer classes and that the Company's proposed rates moved in this direction. Witness Davis testified that rates cannot be realigned to produce uniform rates of return in one abrupt change. In addition, he stated that if rates were designed to generate equal returns between classes based on an historic test period, these relationships would not exist when the rates became effective due to several changing conditions, including the rate of growth of the various customer classes, the types and timing of plant additions, and the relative levels of inflation. Mr. Davis further testified that, for this reason, rates of return should be set in a reasonable range rather than seeking absolute uniformity based on an historic study.

The Commission Staff review of the effects of CP&L's proposed rates on class rates of return was presented in the testimony of Staff witness Tucker. Mr. Tucker testified that the maximum variation in rate of return from the retail average return for the major rate schedules was between 10% and 11% with one exception, and significant reductions were made in the variation from average return for that schedule. He stated that, though cost must be a major input into rate design, consideration must be given to other factors such as possible customer impact, inherent relationships between rates, and historic rate design. Further, he testified that changing conditions can alter the results of historic studies, especially when these conditions may require an alteration in future cost allocation methods. For these reasons, the Staff agreed with the Company's proposed distribution of revenue increase among rate classes.

The Commission has reviewed the evidence presented and concludes that the Company's proposed revenue distribution substantially reduced the existing overall variation in rates of return between retail customer classifications. The Commission is fully aware that changing conditions could affect the customers' usage characteristics and resulting cost responsibility and may require alteration of the current allocation procedures. Thus, the Commission is of the opinion that the proposed distribution of revenue increase among rate classes is reasonable and concludes that further adjustment based on an historical allocation study is not necessary at this time.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 22

In his testimony, Mr. Davis indicated that the rate design objectives of CP&L are to streamline and combine as many of the existing schedules as possible, to equalize the customer charge component by class of service, to eliminate or standardize rate blocks and charges where possible, and to more directly reflect cost relationships of the customer, demand, and energy components in each rate. With respect to the rate schedules for small general service, Mr. Davis

indicated that the class consists of six rate schedules. Two of these rates were frozen to new customers as a result of the Company's last general rate proceeding (Docket No. E-2, Sub 264). The Company is proposing to freeze the availability of three more of the small general service schedules in this proceeding, leaving only the principal rate (presently G-1) open to new customers. All new small general service would be served on the proposed SGS schedule. The changes proposed for the SGS schedule (formerly G-1) include a $6.50 basic customer charge and a modification of the blocking for simplification. Mr. Davis also testified that the large general service class presently consists of five schedules. The availability of one was frozen during the last rate proceeding. The Company proposes to eliminate another completely (there are currently no customers being served on that schedule). New customers would be served on one of the other general service schedules. No changes in rate form were proposed for the remaining three schedules. Finally, with respect to the lighting schedules, Mr. Davis testified that the only design changes proposed were the offering of some additional sodium vapor lighting units.

Commission Staff witness Tucker testified that the Staff agreed with the proposed design of the general service and lighting schedules with one exception. He testified that in the general service rates which include a demand charge, the Company proposes to use the ratchet provision approved by the Commission in the last CP&L rate case. This ratchet sets the minimum billing demand as the maximum of (1) 90% of the maximum demand recorded during the billing months of July through October of the preceding 11 billing months or (2) 50% of the maximum demands recorded during billing months of November through June of the preceding 11 billing months. Mr. Tucker stated that, since the winter demand appears to be increasing relative to the summer demand, this ratchet provision should be changed to reduce the relative difference between the value of the summer and winter ratchet factors. He indicated that a reduction of the differential in the seasonal ratchet percentages should give the customer a pricing indication that the cost differential between summer and winter demands could be decreasing and should ease the possible future impact of adjustments in allocation methods. Mr. Tucker proposed an 85% ratchet factor based on summer demand and a 60% factor based on winter demand but stated that the percentages were determined by judgment. Mr. Tucker testified that this change in ratchet provisions would result in a change in demand billing determinants for each rate which includes the ratchet provisions and would require an adjustment in demand related prices to maintain the appropriate revenue levels for each rate. In addition, Mr. Tucker testified that approval of a total increase in revenues other than that proposed by the Company and/or approval of any adjustments to the base of the fuel adjustment factor would require a repricing of all individual rates.

The Commission concludes that the design of the general service and lighting schedules as filed by the Company are appropriate, with one modification. In the Commission's opinion, the ratchet provision in the general service rate schedules with demand charges should be adjusted to reflect a minimum monthly billing demand of (1) 80% of the maximum demand recorded during the billing months of July through October of the preceding 11 billing months or (2) 60% of the maximum demand recorded during the months of November through June of the preceding 11 billing months. This change should more appropriately reflect the relative increase in CP&L's winter peak demand with respect to the summer peak load. The pricing of the rate schedules must be adjusted to reflect the new ratchet provision, the change in the fuel clause base (Finding of Fact No. 13) and the level of total revenues approved herein (Finding of Fact No. 20). The general service and lighting schedules shown in Appendix A have been adjusted to reflect all of the Commission's conclusions on the design of those schedules. The Commission is of the opinion that the general service and lighting rates shown in Appendix A should be implemented.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 23

In the Company's rate proposal, there were several slight wording changes for clarification of the Service Rules and Regulations and Terms and Condition of Service. In addition, the Company proposed some changes which would have an effect on specific customers. With respect to the Service Rules and Regulations, a major change was an increase in the charge for connecting of service from $2.00 to $5.00. Another proposal was to include wording which would prohibit "peak-splitting" for customers who utilize some type of load control equipment. With respect to Terms and Conditions of Service, the TW-2 rate schedule was eliminated and was replaced with a rider to the SGS schedule (affecting two customers). The Staff's testimony indicated that all of the proposed changes in Service Rules and Regulations and Terms and Conditions were reviewed and that the Staff was in agreement with the Company's proposal. None of the Intervenors questioned these aspects of the rate proposal.

From a review of the evidence, the Commission concludes that the changes in Service Rules and Regulations and Terms and Conditions of Service proposed by CP&L are appropriate and should be implemented, with one exception. The Company included a charge in Rider 15 of 0.85¢/KWH reflecting the proposed base of the fuel clause. The Commission is of the opinion that this charge should be changed to 0.680¢/KWH reflecting the fuel clause base approved herein. The rate schedules and the pages of Service Rules and Regulations shown in Appendix A contain all the above modifications found appropriate and should therefore be implemented.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT 24

Testimony concerning the design of the residential rates was provided by James M. Davis, Jr., Director of Rates and Regulation for CP&L, and by Dr. Dennis W. Goins, a Commission Staff economist. The residential rate schedule proposed by CP&L in this docket consolidates the three existing residential rate schedules into a single rate schedule. The Commission concludes that the design of the residential rate schedule should reflect the cost of providing electric service to customers, encourage the conservation of energy resources, and promote economic efficiencies. The approved residential rate schedule attached as Appendix A is designed with pricing changes to reflect a more equitable and efficient rate design.

The cost of providing electric service 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's facilities by the customer. The energy cost component varies with kilowatt-hour consumption.

Customer costs, which include billing costs, plant items such as the meter and service drop, and part of the distribution plant, are costs incurred by CP&L regardless of the kilowatt-hours of electricity sold to customers. The Basic Facilities Charge in each of CP&L's existing residential rate schedules is a separate charge that attempts to recover most of these customer costs. Both Mr. Davis and Dr. Goins agreed that the existing residential rate schedules should be consolidated into a single residential rate schedule with a single Basic Facilities Charge applicable to all residential customers. Mr. Davis proposed a $6.50 per month Basic Facilities Charge; Dr. Goins urged that the Basic Facilities Charge be set at $6.00 per month. Although he advocated a lower Basic Facilities Charge than did Mr. Davis, Dr. Goins did urge the Commission to move gradually toward complete recovery of all customer costs through a separately stated monthly charge. Testimony by both Mr. Davis and Dr. Goins showed that each of the proposed Basic Facilities Charges was less than the average monthly customer costs incurred by CP&L. The portion of customer costs not included in the Basic Facilities Charge is recovered in the kilowatt-hour rates of the residential rate schedule. The Commission believes that the gradual movement toward complete recovery of customer costs through a separately stated monthly charge is appropriate. In addition, the Commission believes that the term "Basic Customer Charge" is a more accurate description of the separately stated monthly charge used to recover a major portion of average monthly customer costs incurred by CP&L.

Both Mr. Davis and Dr. Goins agreed that a summer-winter price differential, such as the price differential approved for all-electric customers in Docket No. E-2, Sub 264, should be maintained and made applicable to all residential

customers. However, Dr. Goins testified that the summer-winter price differential should be less than the price differential proposed by Mr. Davis. Evidence provided by Dr. Goins showed that the annual load factor of electric heating customers had declined steadily since 1972 while CP&L's winter system peak had continued to grow. However, no evidence was presented to indicate that CP&L cannot reasonably be expected to continue to be a summer-peaking company in the near future. The Commission agrees that winter heating loads should not be encouraged by the residential rate structure as much as such loads have been encouraged in the past. The summer-winter price differential is still appropriate for CP&L's residential customers, but this differential should be decreased to give residential customers a more proper price signal regarding possible changes in the allocation method used to assign costs to customer classes. Furthermore, the applicability of the summer-winter price differential to all residential customers, as approved in this Order, eliminates the inequity of charging different prices (except cost-related differences) for electricity consumed during the same time periods.

The consolidation of the residential rate schedules eliminated the special water heating provisions contained in the existing Schedules R-2 and R-3. The Commission believes that the continued higher annual load factors of water heating customers and the diversity of water heating loads justify the continuation of the cost-related water heating provision. Therefore, the approved residential rate shown in Appendix A incorporates a special rate provision for customers having an approved water heater.

The approved residential rate schedule, which is shown as Schedule RES-3 in Appendix A, consolidates the three existing rate schedules into a single rate schedule, simplifies the KWH blocking in the rate schedule, and maintains a separately stated customer charge provision, a summer-winter price differential, and a special rate provision for customers having an approved water heater. The Commission is of the opinion that this approved rate schedule should be substituted for the proposed CP&L rate schedule in order to reflect a more equitable and efficient rate design.

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. The Commission also seeks 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 electricity 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, just as in Docket No. E-2, Sub 264, 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. Using mass communication to promote conservation of energy during anticipated periods of peak demand, to inform customers of methods to reduce the unnecessary use of electricity, and to postpone nonessential usage; and

3. Promoting 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 FINDING OF FACT NO. 25

Commission Staff witnesses Bumgarner and Tucker and Company witnesses Davis and Horne testified as to the appropriateness of the use of the single summer system peak demand as the basis for the Company's cost of service and jurisdictional allocation studies. These witnesses generally agreed that CP&L has, in the past, clearly been a summer peaking system. However, they also agreed that the winter peak has been growing faster than the summer peak in recent years. Staff witness Bumgarner recommended in his testimony that in future proceedings the Commission should

look not only at a single peak method of allocation but also at other methods utilizing more than one peak.

In view of the above testimony, this Commission concludes that Carolina Power & Light Company should, in the future, file with the Commission, on an annual basis, cost of service studies based on the winter system peak demand as well as the summer peak studies presently filed with the Commission.

IT IS, THEREFORE, ORDERED as follows:

1. That effective for retail electric service rendered in North Carolina on and after July 1, 1977, 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 $44,253,000.

2. That the rates and changes to the Service Rules and Regulations approved herein are set forth in Appendix A attached hereto. The Company shall file amended tariffs reflecting the rates and Service provisions contained in Appendix A on or before July 1, 1977.

3. That an Approved Fuel Charge in the amount of a 0.055¢/KWH credit is herein approved to be applied during the July 1977 billing month to the basic rates herein approved.

4. That the formula for fuel cost adjustments under G.S. 62-134(e) attached hereto as Appendix B be, and the same is hereby, approved for future use effective with any filing made under G.S. 62-134(e). CP&L shall supply the Commission, on a monthly basis, the computations required on the formula attached hereto as Appendix B. Such formula shall henceforth constitute the basis of rate filings by CP&L pursuant to G.S. 62-134(e).

5. That the basic rate design approved herein contains charges of 0.04834¢ per kilowatt-hour for the permanent disposal of the nuclear fuel consumed during the test year, 0.00377¢ per kilowatt-hour for the 5-year amortization of spent nuclear fuel assemblies and 0.00494¢ per kilowatt-hour for the disposal cost (10-year amortization) of the spent nuclear fuel assemblies. Funds collected within the basic rates applicable to these costs shall be recorded in a separate subaccount of Account 120.5, accumulated provision for amortization of nuclear fuel assemblies. Should the reprocessing of nuclear fuel waste be permitted prospectively, amounts recorded in this account shall be amortized as a reduction to the cost of service over a reasonable period of time.

6. That CP&L shall file with the Commission, on an annual basis, cost of service studies based on the winter system peak demand as well as the studies presently filed

with the Commission which are based upon the summer system peak demand.

7. That CP&L shall continue to develop and implement plans for the reduction of system peak through:

a. Continuing education of its customers and the general public in the need for and methods of controlling system peak;

b. Using mass communication to promote conservation of energy during anticipated periods of peak demand, to inform customers of methods to reduce the unnecessary use of electricity, and to postpone nonessential usage; and

c. Promoting 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.

8. That CP&L shall give public notice of the rate increase approved herein by mailing a copy of the notice attached hereto as Appendix C 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 29th day of June, 1977.

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

Note: Clerical errors described in Order issued June 30, 1977, are incorporated in above Order.

NOTE: For Appendices A and C, see official Order in the Office of the Chief Clerk. For Appendix B, see official Errata Order dated June 30, 1977, in the Office of the Chief Clerk.

DOCKET NO. E-2, SUB 297

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Carolina Power & Light Company for Authority to Increase its Rates and Charges in its Service Area Within North Carolina	)	DECISION AFFIRMING ORDER OF JUNE 29, 1977, ON RECONSIDERATION

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on July 29, 1977

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; Commissioners Ben E. Roney, Robert K. Koger, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Joyner and Howison, P.O. Box 109, Raleigh, North Carolina 27602

William E. Graham, Jr., General Counsel, Carolina Power and Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

For the Intervenors:

Thomas R. Eller, Jr., Attorney at Law, 104 Finley Building, 3301 Executive Drive, Raleigh, North Carolina 27609
For: N.C. Textile Manufacturers Assoc., Inc.

Robert C. Hudson, Office of General Counsel, Department of Navy, Atlantic Division, Naval Facilities Engineering Command, Norfolk, Virginia 23511
For: Consumer Interests of Executive Agencies of the Federal Government

For the Public Staff:

Dwight Allen, Assistant Staff Attorney, North Carolina Utilities Commission - Public Staff, P.O. Box 991, Raleigh, North Carolina 27602
For: Using and Consuming Public

Jesse C. Brake, Assistant Attorney General, P.O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: This matter is now before the Commission on reconsideration pursuant to G.S. 62-80, both

on the Commission's own motion and upon motion by the Public Staff.

On July 22, 1977, the Public Staff filed Notice of Intervention and Petition for Reconsideration. On July 25, 1977, the Commission entered an Order Setting the Docket for Hearing on Reconsideration of Oral Argument for July 29, 1977. On July 27, 1977, the Applicant filed Motion to Disallow the Intervention of the Public Staff and to Deny Reconsideration of the Commission's Order. On July 29, 1977, the Commission entered an Order Setting the Order of June 29, 1977, for Hearing on Reconsideration and Review on the Commission's own Motion and consolidated the same with the Motion of the Public Staff.

Chairman Koger did not participate following an opinion of the Attorney General that his prior participation as Director of Engineering in the staff investigation of the application would prevent his voting on Reconsideration. See also Burke v. Railway Company 257 NC 683 (1962).

The Commission's decision on reconsideration of this proceeding is based upon the evidence of record taken at the Hearings and at the Oral Argument of July 29, 1977, wherein all parties were allowed the opportunity to be heard under the provisions of G.S. 62-80.

Based upon reconsideration of the record herein and the pleadings and argument of the parties relating thereto, the Commission by evenly divided decision concludes that sufficient cause has not been shown to alter or amend the Commission's Order of June 29, 1977, granting a partial increase in the electric rates of CP&L. A substantial change occurred in the membership of the Commission between the time of the original hearing in April 1977 and the time of the Hearing on Reconsideration on July 29, 1977. The Commissioners who entered the Order on June 29, 1977, heard the testimony in the case and after extensive deliberations arrived at their decision as to the increase they found to be just and reasonable, after opportunity to observe the witnesses in cross-examination in 10 days of public hearing.

While all Commissioners participating on reconsideration are fully entitled to vote upon review of the record and participation in the hearing and proceedings on reconsideration, there is some measure of recognition in this decision to leave the decision of June 29, 1977, to the Commissioners who heard the evidence in person, unless a compelling case is made upon reconsideration to alter or amend that decision. After extensive review and deliberation, the Commissioners voting with this prevailing decision do not find such a clear case to alter or amend the original decision of June 29, 1977.

The electric rates found to be just and reasonable in the original Order were based on a rate of return almost exactly the same as that supported by the expert financial witness

Carleton offered on behalf of the using and consuming public. We do not find persuasive grounds in this review to alter or amend those rates. Concomitant with the duty to fix reasonable rates is the responsibility to require CP&L to provide adequate service for all needs within its assigned service area. We are not willing to alter rates which were fixed in the Order at a level considered to be necessary in order to maintain adequate service, without an opportunity to monitor some experience under those rates. The rates of CP&I remain subject to change under existing law at any time the Commission should find after Notice and Hearing that they are excessive or are otherwise unjust and unreasonable. The Commission has the responsibility to maintain surveillance over CP&L's earnings under the new rates, and it is clear that the Commission will diligently meet this obligation. The Commission as now constituted can look prospectively to full implementation of its responsibilities in investigations and hearings with opportunity for full operation of the 1977 amendments to the Public Utilities Act and can test fully all decisions arrived at prior to July 1, 1977, on new evidentiary hearings, without having to undertake this function on records closed before the new act took effect. For these reasons, the evenly divided decision of the Commission is that the Order of June 29, 1977, herein should not be altered or amended and, thus, remains in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.
This 9th day of September, 1977.

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

Commissioners Deane, Roney and Tate, concurring.
Chairman Koger, not participating.

TATE, COMMISSIONER, CONCURRING: I voted against reconsideration of the CP&L case because:

1. A competent legally constituted court had heard the evidence and rendered a decision.

2. I could not determine any change of circumstances or abuse of discretion by that trial court requiring review.

3. I was unwilling to assume that I was more competent to reach a decision than the triers of the case nor did I feel it was legally proper to substitute my judgment for theirs.

Sarah Lindsay Tate, Commissioner

FISCHBACH, COMMISSIONER, DISSENTING: I have considered the evidence of record in this case and conclude that an allowed rate of return lower than that provided in the Commission's Order of June 29, 1977, would satisfy the

provisions of G.S. 62-133 and would be consistent with the decision of the Supreme Court in Utilities Commission v. Power Co., 285 N.C. 377, 387-388 (1974), wherein the Court stated:

> "The origin of this statute supports the inference that the Legislature intended for the Commission to fix rates as low as may be reasonably consistent with the requirements of the Due Process Clause of the Fourteenth Amendment to the Constitution..."

In reaching this conclusion, these were among the considerations:

1. The case had been heard and concluded, and an Order issued without dissent.

2. The rate of return allowed in the Commission's Order was almost precisely the value recommended by the expert witness who testified on behalf of the Using and Consuming Public.

3. The reversal of an Order by a newly constituted majority of the Commission based solely on a reassessment of the same evidence might be incorrectly viewed and thereby trigger an adverse effect on the interest rates charged to CP&L and ultimately borne by the ratepayer.

These considerations were outweighed, however, by acknowledging the Commission's responsibility to exercise its best judgment and to act thereon, independent of who may have heard the original case, whose recommendation might have been accepted, and how those not charged with regulatory responsibility might view the circumstances.

The factors which support a lower rate of return are given below:

Company witness Langum, in his determination of fair rate of return on common equity, offers six studies, the first three on the basis of commensurate return. The first of these studies considers allowed rates of return on common equity for electric utilities in rate proceedings in 1975 and 1976. This study covers some 39 orders by state and federal regulatory commissions for companies in original cost jurisdictions. The average allowed return is shown by witness Langum to be 13.47%. The witness then states that 1.65% is the average differential in allowed rates of return between original cost and fair value jurisdictions. 0.75% is added by witness Langum to the 13.47% average return found from his study to support his recommended value of 14.25% as a reasonable return on common equity for CP&L. Witness Langum's repeated testimony that returns on common equity must not be compared without consideration of the corresponding common equity ratio of the respective companies is noted. The difficulty with this study is that, among other reasons, witness Langum does not follow his

recommendation and adjust for the differences in common equity ratios as he does in subsequent studies. Moreover, he does not provide the information necessary for the Commission to make the adjustment. There were other difficulties with this study offered by witness Langum. The witness offered no support of his contention of a 1.65% differential in allowed rates of return in original versus fair value jurisdictions. Further, the witness fails to consider the trend in allowed rates of return that occurs over the period in his study. When the allowed returns for the two years which he cites collectively are stated separately for years 1975 and 1976, a downward trend is seen. This downward trend is even more clearly and significantly seen when the returns for these companies are taken in half-year increments from the first half of 1975 through the second half of 1976. This downward trend is consistent with declines in inflation rates and interest rates revealed elsewhere in the record. In considering cross-examination of witness Langum, his testimony that the cost of equity capital for electric utilities in general, and CP&L in particular, is higher than it was in 1974 and 1975 is noted. There is no substantial evidence in the record to support this view, but considerable evidence is in the record that the cost of equity capital for electric utilities in general was lower than it was in 1974 and 1975.

For his second study as a test of commensurate returns, or comparable earnings, witness Langum considers the actual earnings experience on common equity of operating electric utilities in fair value jurisdictions for the years 1971 through 1975. In this study, witness Langum adjusts the earned rates of return for the comparison companies to account for differences in common equity ratio. The witness eliminates from this study various companies for various years on the grounds that financially unhealthy or unsuccessful companies should not be used for comparison. The results of this study show that earned rate of return on common equity averaged 14.87% in 1971; 15.30% in 1972; 15.23% in 1973; 15.24% in 1974; and 14.78% in 1975. These results are offered by witness Langum in support of his recommended rate of return for CP&L of 14.25%. In my consideration, I have focused on witness Langum's results for the year 1975 because it is the most current year offered in this study. For the year 1975, witness Langum has excluded all but eight companies and of these, three are Texas utilities. The average return for these eight is 14.78%. Witness Langum in noting the different regulatory climate which existed in Texas prior to late 1976 shows that the average return excluding the Texas utilities is 13.78%. I agree with witness Langum on the speciality of Texas regulation and conclude that these companies should be excluded from the study. In an attempt to base judgment on more than the remaining five, I have reviewed those companies excluded by witness Langum in his study and note that he excluded five companies in the year 1975 because their earnings were "significantly less than that allowed." These additional five companies, as shown in other

information provided by Langum, sold in 1975 at or above book value and therefore should not be excluded from comparison as unhealthy or unsuccessful. When the returns on equity for these five are included with the returns for the five offered by Langum, the average return on common equity is 12.75%. This is in contrast with the 13.78% which witness Langum derived using only his five companies.

As his third study offered as a test of commensurate return, witness Langum considers the major upswing in rate of return on common equity earned by unregulated enterprises in the American economy during 1974 through 1976. Electric utilities used in the prior study are compared with results of 41 industrials with comparable quality rating of High Grade by MOODY'S. In discussing these results, witness Langum concludes that the recommended fair rate of return on common equity for Carolina Power & Light Company - 14.25% at a 35.81% common equity ratio - "is very much in line with historical relationships with corporate profitability of these closely comparable firms in the unregulated part of the economy." There are difficulties with this study. The results are not offered in sufficiently quantitative terms to show what rate of return would be out of line with historical relationships, i.e., what is the range of return on common equity for CP&L which would be "very much in line with historical relationships"? Second, while there might be merit in Witness Langum's procedure for making adjustments to compensate for differences in common equity ratio where those differences cover a modest range, no evidence that such an adjustment procedure can be applied to companies where the common equity ratio is dramatically different from electrics, e.g., more than double, is offered. A third difficulty in this study, and in the prior two studies, is that the witness in his test for commensurate return deals totally with book value. He does not indicate awareness that investors' concern is for their investment; namely, market value. This use of commensurate return, or comparable earnings, as a test is not acceptable. It is not the principle that is incorrect, but its application; i.e., consideration of return on book value to the exclusion of return on market value, which is a relevant value from an investor's perspective.

In continuing in the determination of fair rate of return on book value of common equity, witness Langum next considers the basis of standards of maintenance of credit and support of financial integrity and attraction of capital on fair and reasonable returns. The first study deals with market prices of common stock in relation to book value and common stock offerings. Witness Langum offers that CP&L, with a market to book ratio of 90.54%, was slightly above the median of a group of 108 leading electric utilities on December 31, 1975. Witness Langum offers an exhibit showing the average ratios of the prices paid by the public to book values for new common stock offerings for electric utilities from 1972 through 1976. Witness Langum shows that in 1976 the average was 94.94%. The witness continues by showing

the record of CP&L and notes that in its most recent issue on October 13, 1976, CP&L sold 3 million shares of common stock to the public at a total price of $66,750,000 and that the price to the public was 98.71% of book value. Witness Langum discusses the need for companies to sell at or above book value in order to support their financial integrity. The witness concludes this study by stating that a rate of return on common equity of 14.25% at a common equity ratio of 34.96% offers support for common stock offerings by CP&L on fair and reasonable terms to existing investors. The difficulty with this study is that witness Langum fails to comment on what lower values of return on common equity would still offer support for common stock offerings on fair and reasonable terms to existing investors. The record of these hearings reveals an existing market-to-book ratio of 106% for CP&L when earned return on common equity was between 11.8% and 12.4%, depending on how non-recurring expenses are treated.

In the final two studies offered by witness Langum, first mortgage bond offerings of electric utilities with fixed charge ratios to support A ratings in 1975 to 1976 are considered. Secondly, preferred stock offerings of electric utilities with fixed charge and preferred stock dividend coverage ratios to support "a" and "A" ratings 1975 through 1976 to date are considered. There is the same difficulty with these two studies as with the prior study dealing with market price of common stock. Namely, while witness Langum's recommended value of 14.25% return on common equity may satisfy the requirements of standards of maintenance of credit and support of financial integrity and attraction of capital on fair and reasonable terms to existing investors, the witness offers no assistance to the Commission in its responsibility to consider the lowest value that will satisfy these criteria.

Staff witness Currin used the discounted cash flow approach to determine his recommended fair rate of return on common equity. In his calculation 7.57% is used for dividend yield and 4.61% for growth factor. The result of this calculation gives a bare cost of equity of 12.18%. To enable the company to net book value on a common stock sale, an increment is added to allow for issuance expenses and market pressure. With the addition of this increment, witness Currin arrives at a value of 12.91% as his recommended rate of return on common equity for CP&L.

Witness Currin's use of the discounted cash flow approach is acceptable; however, the time frame, the averaging procedure and the weighting technique used to determine dividend yield and growth factor for the DCF calculation were not sufficiently defended against the contention of being arbitrary. Another difficulty with witness Currin's testimony is that he offers no alternate studies to substantiate or corroborate the results of his discounted cash flow approach.

In Attorney General's witness Carleton's study of cost of equity capital for CP&L, attention is first directed to interest rates. From this, the witness offers that a value of 9% can be taken as a minimum for cost of equity capital. Witness Carleton's second study considers earnings - price ratios and this study results in a range of 12.2% to 12.74% as a cost of equity capital. The witness next applies the simple DCF formula using the historic average dividend per share growth rate. 2.6% used as the average rate of growth of CP&L dividends per share for the years 1966 through 1976 provides a DCF result of 10.2% to 10.5%, depending on whether $22.50 or $21.50 is used as a recent stock price. For his fourth study, witness Carleton applied the simple DCF formula, this time using the historic average earnings per share growth rate. 3.8% used as the average earnings per share growth for the years 1966 through 1976 provides a range of 11.5% to 11.8%, depending on whether a current stock price of $22.50 or $21.50 per share is used. For his fifth study, witness Carleton again uses the simple DCF formula and employs 3.8% as the average growth rate of book value of equity. This study yields the same result as the prior one, a range of cost of equity capital from 11.5% to 11.8%. For his sixth study, witness Carleton applies the finite horizon DCF formula. This study yields a cost of equity range of 13.0% to 14.0% consistent with share prices of $21.55 and $21.99 and growth rates of 2.6% and 3.4% (the mean of EPS and DPS rates), respectively. In this calculation, the witness used a time frame of four years. For his seventh study, witness Carleton makes a comparison with other electrics and the results of this study provide a range of 12.4% to 13.8% as the cost of equity capital. Witness Carleton then offers judgment that the earnings - price ratio provides an absolute floor to CP&L's cost of equity capital and that the results of studies that yield values lower than 12.74% should be discarded.

Witness Carleton summarizes his judgment for CP&L's cost of equity capital by estimating that it lies between 13.0% and 13.8% and the witness offers 13.5% as his recommendation. The witness states that no adjustment in his recommended value has been made to account for transaction costs in new issues and justifies this on two grounds: first, that the cost factor is small and, secondly, that his estimate of 13.5% is fair-to-generous because no allowance has been made for the fact that equity holders are benefiting from the normalization of investment tax credit and depreciation tax provisions.

Under cross-examination, witness Carleton states that the lowest return on book value common equity which would still meet the capital attraction test would no doubt be below 13.5% and estimates it would be a "little bit above 13.0%."

Robert Fischbach, Ph.D., Commissioner

WINTERS, COMMISSIONER, DISSENTING: I have reviewed the record and the pleadings and argument from the Hearing on

Reconsideration, and in my judgment the Commission's Order of June 29, 1977, should be amended to reduce the electric rates approved for CP&L to reflect a lower rate of return than the 13.57% rate of return on common equity allowed in the Order. The testimony of witness Carleton that a return of 13% on common equity would be within the low end of the range of reasonableness, coupled with the evidence of witness Currin for the Commission Staff that a return of 12.91% is within the reasonable cost of equity capital, is convincing that the rates fixed in this case will provide CP&L with something more than a reasonable rate of return. While there is general agreement that there is no exact number in setting a rate of return, it is my opinion that the intent of the General Assembly is for the Commission to set a rate of return as low as possible, and no more, while being fair to a utility. Therefore, I would vote on the record to reduce the increase in revenue allowed by the June 29, 1977 Order from $44,253,000 to something less for a rate of return of approximately 8% on the fair value rate base, which would result in a return of approximately 13% on book equity. This would provide a reasonable return to CP&L while producing a reduction in cost to the consumers. I believe that the consumer is entitled to know that the rates approved by the Commission are as low as they can be and still provide a lawful and reasonable return on the property serving him. The Public Utilities Act provides that the Commission shall fix rates which are fair to both the utility and the consumer, and, in my opinion, the Order of June 29, 1977, should be amended to reduce the approved rates to meet this test.

John W. Winters, Commissioner

HAMMOND, COMMISSIONER, DISSENTING: After careful examination of the issues involved and the record in this case, I must dissent from the decision that sufficient cause has not been shown to alter or amend the Commission's Order of June 29, 1977. The issues involved can be summarized in the following fashion:

1. Should the Commission reconsider a prior Order?

2. Should the Public Staff have standing in this particular case?

3. Should the rate of return of 13.57% allowed in the June 29, 1977, Order be reduced?

4. Should the Company be penalized for alleged inefficiencies and poor record of service in its Brunswick Nuclear Unit No. 1?

It is my considered judgment that the overwhelming weight of the evidence and the law supports an affirmative response to issues 1, 2, and 3 and a negative response to issue 4. A brief discussion of each issue, along with my conclusions, will be given to support my conviction that the Commission

failed to meet the test of assuring that "rates are fixed as low as may be reasonably consistent with the requirements of the due process clause" of the U.S. Constitution and the North Carolina Constitution [State ex rel. Utilities Commission v. Duke Power Co. 285 NC 377, 206 S.E. 2d 269(1974)].

Should a Prior Order be Reconsidered?

A major issue was made over the fact that the Commission, composed of a majority of new members who had not participated in the original hearings, could not weigh the evidence and reach a reasonable and just decision. It was pointed out that the new Commissioners "had not had benefit of observing the demeanor of the witnesses under cross-examination" and, therefore, "should not substitute their judgment for the judgment of those who did." I strongly disagree with these arguments.

It is my conviction that the General Statutes of North Carolina recognize the need, from time to time, for the Commission to review, rescind, alter, or amend any Order or decision made by it (G.S. 62-80).

The oath taken before entering upon this office committed me to "well and truly perform the duties of said office." My interpretation of those duties leads me to the conclusion that the Commission should reconsider the June 29, 1977 Order granting a rate increase to Carolina Power and Light Company.

Should the Public Staff Have Standing?

The argument was made that the Public Staff is not a party to this docket. It is my conclusion that the "using and consuming public" is a party to the docket and that the Public Staff is Counsel for that party.

At any rate, the decision to reconsider or not to reconsider should not revolve around questions concerning the right of the Public Staff to represent the using and consuming public.

Should the Rate of Return be Reduced?

Based upon a careful examination of the evidence presented in the record, it is my judgment that the rate of return of 13.57% granted in the June 29, 1977, Order should be reduced to a level approaching that recommended by Commission Staff witness Currin.

This judgment is based on two major factors: (1) the increased stability of the financial market and the dampening of the inflationary spiral of recent years and (2) the significant reduction of company risks due to the Fuel Clause Adjustments allowed in recent years.

This reduction in uncertainty should have, in my judgment, resulted in a lower rate of return than the 13.57% which was granted.

Regarding the Fuel Clause Adjustments, it is my conviction that these adjustments over the past four years have significantly reduced the managerial and financial risks for electric utility companies. Fuel costs account for approximately 50% to 60% of operating expenses for electrical utilities. The ability to make monthly adjustments to reflect fuel costs and to pass these adjustments on to the consuming public has resulted in a major shift in risk from the Company and its shareholders to the customer.

Economic theory and the practical workings of the market place suggests that the rate of return is a reward for risk taking and that low risk investments generally result in low rates of return. Likewise, high risk investments generally result in higher rates of return for the investors.

It is my judgment that these factors of stability in the financial markets and the reduction of risk due to the fuel clause adjustment should receive greater weight in this case and that the rate of return granted in the June 29, 1977, Order should be reduced. This reduction would require a reduction in rates and significant savings for the consumer of electric power. At the same time the reduced rates should allow the Company to enter the financial market and attract the capital necessary to continue meeting the demand for electric power.

Should Penalties be Assessed for Nuclear Unit Inefficiencies?

It is a well known fact that any new production process, whether a food processing plant or a nuclear generating plant, encounters numerous "shakedown" problems during its initial operations. The record does not support a conclusion that the Brunswick Unit No. 1 has encountered problems beyond those that could be reasonably expected in a new operation. The time period of operation has been too short to justify a conclusion that inefficiencies and a poor record of service exist.

In conclusion, it is my conviction that the Commission has the legal authority and moral responsibility to reconsider the June 29, 1977, Order and to reduce the rate of return, rates, and revenue allowed in that Order. Therefore, I must dissent from this Order which results in an affirmation of the earlier Order.

Leigh H. Hammond, Commissioner

DOCKET NO. E-2, SUB 305

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, March 21, 1977 at 2:00 P.M.

BEFORE: Tenney I. Deane, Jr., Presiding; Commissioners Barbara A. Simpson and W. Lester Teal

APPEARANCES:

For the Applicant:

John T. Bode, Bode and Bode, P.A., P. O. Box 391, Raleigh, North Carolina 27602

For the Intervenors:

Robert Gruber, Special Deputy Attorney General, North Carolina Department of Justice, P. O. 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

BY THE COMMISSION: On February 25, 1977, 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. 37M, which would adjust the charge for each kilowatt-hour by the addition of 0.264 cents which is an increase of 0.032¢/KWH from the 0.032¢/KWH adjustment contained in Fuel Charge Rider No. 37L approved on February 24, 1977.

On March 1, 1977, 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, Director of Rate Design - Rates and Service Practices 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 February, 1977.

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. 37M.

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. 37M, 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 0.232¢/KWH, Fuel Charge Rider No. 37M, which adjusts CP&L's basic rates by an increase of 0.264 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 April, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of March, 1977.

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

DOCKET NO. E-2, SUB 306

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
February, 1977) DECREASE

BY THE COMMISSION: On March 29, 1977 Carolina Power and Light Company (Company) filed an application with the Commission, pursuant to G.S. 62-134(e), requesting authority to decrease its retail electric rates and charges by 0.181 cents for each kilowatthour sold under its filed rate schedules on bills rendered on and after May 1, 1977.

The application of the Company sought approval of a 0.083¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.264¢/KWH adjustment previously approved by the Commission effective for the billing month of April, 1977. The 0.181¢/KWH decrease is based solely on the decreased cost of fuel used in the generation of electric power during the months of December, 1976 and January and February, 1977.

With the application, the Company filed the affidavit testimonies of David R. Nevil, Director of Rate Design - Rates and Service Practices 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 February, 1977. Mr. Nevil's testimony concerned the calculation of the 0.083¢/KWH factor.

The Staff reported on its investigation and review of this application at the Commission's regular weekly meeting on April 12, 1977.

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 0.083¢/KWH in lieu of the previously approved 0.264¢/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 0.083¢/KWH in lieu of the previously approved adjustment of 0.264¢/KWH, to become effective on bills rendered on and after May 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of April, 1977.

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

DOCKET NO. E-2, SUB 316

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, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, October 18, 1977 at 9:30 A.M.

BEFORE: Robert K. Koger, Presiding; Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, John W. Winters

APPEARANCES:

For the Applicant:

Mr. William E. Graham, Jr., Senior Vice President and General Counsel, Carolina Power and Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

John T. Bode, Bode and Bode, P. A., Post Office Box 391, Raleigh, North Carolina 27602

For the Public Staff:

Jerry Fruitt, Chief Counsel - Public Staff, 430 N. Salisbury Street, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Intervenors:

Richard L. Griffin, Associate Attorney General, and Jesse C. Brake, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: On September 30, 1977, 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. AFC-5, which would adjust the charge for each kilowatt-hour by the addition of 0.412 cents which is an increase of 0.022¢/KWH from the 0.390¢/KWH adjustment contained in Fuel Charge Rider No. AFC-4 approved on September 27, 1977.

On October 3, 1977, 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., Manager of Rates and Services Practices Department of CP&L testifying as to the computation of the fuel adjustment factor, and R. A. Watson, Manager of Fuel Department, in Power Supply Group of CP&L testifying as to the changes in the cost of fuel used in the generation of electric power during the month of August, 1977.

The Public Staff offered the testimony of Andrew W. Williams, Director of the Electric Division, detailing the Public Staff's review of the evidence presented by CP&L in support of Fuel Charge Rider No. AFC-5 and recommending a modification in the current fuel cost adjustment procedure.

The portion of the hearing dealing with the Public Staff's recommendation for a modification in the existing fuel cost adjustment procedure was continued until November 2|, |977. This matter will be consolidated for hearing with similar testimony in Duke Power Company, Docket No. E-7, Sub 23| and Virginia Electric and Power Company, Docket No. E-22, Sub 2|6.

After careful consideration and scrutiny of the evidence and testimony offered by both Carolina Power and Light Company and the Public Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider No. AFC-5, 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 0.390¢/KWH, Fuel Charge Rider No. AFC-4, which adjusts CP&L's basic rates by an increase of 0.4|2 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 November, |977.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of October, |977.

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

DOCKET NO. E-7, SUB 223

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Power Company for	) ORDER APPROVING
Authority to Adjust its Electric	) DECREASE IN
Rates and Charges Pursuant to	) APPROVED FUEL
G.S. 62-|34(e)	) CHARGE

HEARD IN: The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, June 20, |977, at 2:00 p.m.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; and Commissioners Barbara A. Simpson, Leigh H. Hammond, S. Lindsay Tate, and Robert K. Koger

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, P. O. Box 2|78, Charlotte, North

Carolina 28242
Appearing for: Duke Power Company

For the Intervenors:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 629 - Dobbs Building, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 26, 1977, Duke Power Company (Duke) filed an application for authority to decrease its retail electric rates and charges based solely upon the decreased cost of fuel used in the generation of electric power pursuant to G.S. 62-134(e). Duke sought approval to adjust its charges for each kilowatt hour of electricity sold by a credit of 0.0065 cents which is a decrease of 0.0085 cents per KWH from the 0.0020 cents per KWH adjustment approved on May 13, 1977. By Order dated June 6, 1977, the Commission set the matter for hearing at the time and place first above listed and required Duke to give notice of the proposed decrease to its customers.

The hearing was commenced at the time and place scheduled in the Commission's Order Setting Hearing. Duke offered the testimony of W. R. Stimart, Controller of Duke Power Company, testifying as to the computation of the fuel adjustment factor; R. H. Hall, Jr., Manager - Fuel Purchases, Mill-Power Supply Company, testifying as to the procurement of fuel used in the generation of electric power during the month of April, 1977; and R. G. Snipes, Nuclear Fuel Engineer, testifying as to the cost of permanent disposal of nuclear fuel.

The Commission Staff offered the testimony of Andrew W. Williams, Chief of the Electric Section, concerning the Staff's review of the evidence presented by Duke in support of its application.

The exhibits offered by Duke in support of its application included an average $1,535,037 monthly adjustment to its three-month test period (February - March - April, 1977) fuel cost as an estimate of the cost associated with the disposal of nuclear fuel ("throw-away" fuel cycle) burned during the test period. Duke had previously recorded only the initial actual cost of nuclear fuel as nuclear fuel expense.

The Commission finds that, in light of the current Federal Administration's stated policies to disallow nuclear fuel reprocessing, it is reasonable to include in the total cost of nuclear fuel the estimated cost of permanent disposal of the used fuel and to allow these costs to be used in the termination of the approved fuel cost adjustment factor on an interim basis (until this issue can be more fully explored in a general rate proceeding) if proper accounting principles are employed to insure protection to the consumers.

After careful consideration and scrutiny of the evidence and testimony 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. The charge designed to recover the cost of permanent disposal of nuclear fuel wastes should be a separately identifiable component of the fuel charge (during the interim operation) and the funds collected thereunder should be recorded in a separate subaccount of Account 120.5, Accumulated provision for Amortization of Nuclear Fuel Assemblies. Should the reprocessing of nuclear fuel wastes be permitted prospectively, amounts reported in this Account shall be returned to consumers over a reasonable period of time.

IT IS, THEREFORE, ORDERED that in lieu of the previously approved adjustment for increased fuel costs to Duke Power Company's basic rate of 0.0020 cents per KWH, a new adjustment of -0.0065 cents for each kilowatt-hour based solely on the decreased cost of fuel is approved effective for bills rendered on and after July 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of June, 1977.

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

DOCKET NO. E-7, SUB 228

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, August 15, 1977, at 2:00 P.M.

BEFORE: Tenney I. Deane, Jr., Presiding; Commissioners Sarah Lindsay Tate, Robert Fischbach and John W. Winters

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Duke Power Company, P. O. Box 2|78, Charlotte, North Carolina 28242

For the Public Staff:

Robert F. Page, Assistant Staff Attorney - Public Staff, 430 N. Salisbury Street, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Intervenors:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: On July 26, |977, 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-|34(e). Duke sought approval to adjust the charge for each kilowatt-hour by the addition of a 0.|48| cents charge which is an increase of 0.0899¢/KWH from the 0.0582¢/KWH adjustment approved on July 25, |977.

On August |, |977, 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 S. R. Stimart, Controller, testifying as to the computation of the fuel adjustment factor, and R. H. Hall, Jr., Manager - Fuel Purchases, 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 June, |977.

The Public Staff offered the testimony of Andrew W. Williams, Director of the Electric Division detailing the Public 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 Public 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 0.0582¢/KWH an adjustment of 0.|48| cents for each kilowatt-hour based solely on the increased

cost of fuel is approved effective for bills rendered on and after September 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of August, 1977.

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

DOCKET NO. E-7, SUB 231

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, October 18, 1977 at 9:30 A.M.

BEFORE: Robert K. Koger, Presiding; Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., and George W. Ferguson, Jr., Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28242

For the Public Staff:

Theodore C. Brown, Jr., Assistant Staff Attorney - Public Staff, 430 N. Salisbury Street, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Intervenors:

Richard L. Griffin, Associate Attorney General, and Jesse C. Brake, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: On September 26, 1977, 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 0.4212 cents charge which is an increase of 0.1167¢/KWH from the 0.3045¢/KWH adjustment approved on September 27, 1977.

On October 3, 1977, 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, 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 August, 1977.

The Public Staff offered the testimony of Andrew W. Williams, Director of the Electric Division, detailing the Public Staff's review of the evidence presented by Duke in support of its application and recommending a modification in the current fuel cost adjustment procedure.

The portion of the hearing dealing with the Public Staff's recommendation for a modification in the existing fuel cost adjustment procedure was continued until November 21, 1977. This matter will be consolidated for hearing with similar testimony in Carolina Power and Light Company, Docket No. E-2, Sub 316 and Virginia Electric and Power Company, Docket No. E-22, Sub 216.

After careful consideration and scrutiny of the evidence and testimony offered by both Duke Power Company and the Public 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 0.3045¢/KWH an adjustment of 0.4212 cents for each kilowatt-hour based solely on the increased cost of fuel is approved effective for bills rendered on and after November 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of October, 1977.

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

DOCKET NO. E-13, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Nantahala Power and Light Company for Authority to Adjust and Increase its Electric Rates and Charges	) ORDER GRANTING) PARTIAL RATE) INCREASE AND) DENYING MOTION

HEARD IN: The Courtroom, Swain County Courthouse, Bryson City, North Carolina, on March 15 and 16, 1977, and in the Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 17, 18, 22, 23, 24, 25, and 30, 1977; April 18, 25, and 26, 1977; and May 9, 1977

BEFORE: Commissioner Barbara A. Simpson, Presiding; and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and G. Clark Crampton, Joyner & Howison, Wachovia Bank Building, Raleigh, North Carolina 27601

For the Intervenors:

Fred H. Moody, Jr., McKeever, Edwards, Davis & Hays, Post Office Box 670, Bryson City, North Carolina 28713
For: Swain County

Joseph A. Pachnowski, Attorney at Law, Post Office Box 849, Bryson City, North Carolina 28713
For: The Town of Bryson City

William T. Crisp and Thomas J. Bolch, Crisp, Bolch, Smith, Clifton and Davis, Post Office Box 751, Raleigh, North Carolina 27602, and Robert Harley Bear, Spiegel & McDiarmid, 2600 Virginia Avenue, N.W., Washington, D.C. 20037
For: Henry J. Truett

Richard Griffin, Associate Attorney General, North Carolina Department of Justice, 701 Raleigh Building, Raleigh, North Carolina 27601
For: Using and Consuming Public

For the Commission Staff:

Wilson B. Partin, Jr.,* Assistant Commission Attorney, and Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission, Ruffin Building, Raleigh, North Carolina 27601

*Mr. Partin resigned from the Commission effective April 30, 1977, and did not participate after April 15, 1977.

BY THE COMMISSION: This proceeding is before the Commission upon the Application of Nantahala Power and Light Company (hereinafter referred to as Nantahala, the Applicant, or the Company) filed with the Commission on November 3, 1976, for an increase in retail rates and for a Revised Purchased Power Adjustment Clause. The Company requested that such increased rates be allowed to take effect as of December 3, 1976. The Application alleged that Nantahala must increase its present rates by approximately 20.7% in order to improve the Company's earnings and to provide a sufficient rate of return on its investment which is needed to continue providing adequate service to its retail customers in North Carolina.

The Commission, being of the opinion that the increase in rates and charges proposed by Nantahala herein was a matter affecting the public interest, by Order issued November 22, 1976, declared the matter to be a general rate case pursuant to G. S. 62-137, 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 March 8, 1977, with the burden of proof being placed on Nantahala to show that the proposed increase in rates and charges is just and reasonable as required by G. S. 62-75, required Nantahala to give notice of such hearing by newspaper publication and by appropriate bill inserts, established the test period to be used by all parties in the proceeding, and required protests or interventions to be filed in accordance with Rules R1-6, R1-17, and R1-19 of the Commission Rules of Procedure. Subsequent to issuance of said Order, the Commission by Order of November 24, 1976, reset the hearing to begin on Tuesday, March 15, 1977, at 10:00 A.M.

On November 24, 1976, Notice of Intervention in this matter was given by the Attorney General of North Carolina on behalf of the using and consuming public. By Order issued November 26, 1976, the Notice of Intervention of the Attorney General was recognized.

No other Petitions to Intervene were received prior to the hearing. However, at the hearing counsel for the Town of Bryson City, counsel for the County of Swain, and counsel for Henry J. Truett asked that the Rules of the Commission be waived and that they be permitted to intervene. Said interventions were allowed by Order from the bench provided

written Petitions to Intervene would be filed with the Commission. Said written petitions were filed and are part of the record in this case.

On February 1, 1977, the Commission received a Resolution from the Swain County Board of Commissioners which, among other things, requested that the hearing on the proposed rate increase be held in the Nantahala service area. On February 10, 1977, the Attorney General filed a Motion requesting that all or part of said hearing be held in Nantahala's service area. By Order of March 2, 1977, the Commission directed that hearings be scheduled in Bryson City, North Carolina, on March 15 and 16, 1977, for public testimony and that testimony from the Applicant and Commission Staff be heard beginning on March 17, 1977, in Raleigh, North Carolina.

The matter came on for hearing on March 15, 1977, at 10:00 A.M. in the Swain County Courthouse, Bryson City, North Carolina. Numerous public witnesses appeared to express their views of the proposed rate increase. These witnesses expressed concern, among other things, for the impact of the proposed increase on low and fixed income customers, the increased cost of electricity to the school system, the effect of voltage fluctuations and voltage surges on home appliances, and indicated the belief that the residential customers were not getting the deserved benefits from the hydroelectric plants in the area. Public witnesses testifying at the hearing included the following: Lula Sanders, Florence Phillips, Clint Allen, Reuben Ball, Clyde Smith, Ellen Hyams, Mrs. Thurman Breedlove, Dr. Max Skidmore, Doyle Cooper, Tom Underwood, William G. Davis, James C. Denton, Henry J. Truett, Bennie C. Reese, W. H. DeHart, Gwynn Denton, Helen Kirkland, Mrs. Ruby Gunther, James H. Perrigo, Senith Johnson, Albert Ramsey, Richard Pittman, Carl J. Horton, Carter Maddox, John Roth, Marvin Dingott, Marcia Winchester, Bruce White, Ben Bridgers, Ned Tucker, James A. Cooper, Glenn Gibson, Carol E. White, Claude Harris, Holland Smith, John E. Boring, Burl Orr, Lucille Bradley, and Thomas Beck.

Following public hearings in Bryson City, North Carolina, the hearing moved to Raleigh beginning March 17, 1977, for presentation of testimony by Applicant and the Commission Staff. Applicant offered the testimony of the following witnesses: (1) William H. Jentz, President and Chief Executive Officer of Nantahala Power and Light Company, testified concerning general operations of Nantahala, the change in capital structure since the last rate proceeding, the current financial condition of the Company, and the need for increased rates and earnings; (2) Joseph F. Brennan, President of Associated Utility Service, Inc., testified concerning cost of capital and fair rate of return for Nantahala; (3) Edward Oelsner, Vice President, First Boston Corporation, testified concerning Nantahala's ability to issue long-term debt to finance its construction program and the probable cost of that debt; (4) Robert D. Buchanan,

Assistant Controller, Aluminum Company of America (Alcoa), testified and presented exhibits concerning the Company's balance sheet during the test year and other accounting issues; (5) Julius Breitling, Director of the Evaluation and Appraisal Department for Ebasco Services, Incorporated, testified concerning replacement cost and the use of replacement cost and original cost in determining fair value; (6) Samuel R. Clammer, Manager of Client Services, Utility Rate Department, Consulting Services Group, Ebasco Services, Incorporated, testified concerning certain elements of fair value, allocated cost of service, and rate design; and (7) George Popovich, Power Management Consultant for Alcoa, testified on direct examination concerning fair value of Nantahala's production and transmission plant at the end of the test year.

The Commission Staff offered evidence from six witnesses, whose testimony may be described as follows: (1) Andrew Williams, Chief Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning the Staff's review of the proposed purchased power cost adjustment clause; (2) J. Reed Bumgarner, Jr., Distribution Engineer, Electric Section - Engineering Division of the Commission Staff, presented a review of Nantahala's jurisdictional allocation and retail cost of service studies, the Staff's kilowatt-hour and revenue growth adjustments, and the results of his investigation into the Company's service conditions; (3) N. Edward Tucker, Utilities Engineer, Electric Section - Engineering Division of the Commission Staff, testified concerning the results of Staff studies related to the proposed rate schedules filed by Nantahala in this docket; (4) Eugene H. Curtis, Jr., Operations Engineer, Operations Analysis Section - Engineering Division of the Commission Staff, testified concerning his analysis of the replacement cost or trended original cost study presented by Nantahala and the derivation of the fair value rate base; (5) William E. Carter, Jr., Coordinator of the Accounting Telephone Section - Accounting Division of the Commission Staff, presented his analysis of the Company's books and records for the test year ended December 31, 1975, resulting in an exhibit entitled "Study of Original Cost Net Investment, Revenues, Expenses"; and (6) Edwin A. Rosenberg, Economist, Operations Analysis Section of the Engineering Division of the Commission Staff, testified concerning cost of capital for Nantahala.

The only other witness testifying at the hearing was Arthur Simon, who offered surrebuttal testimony on behalf of Intervenors Henry J. Truett, Town of Bryson City, Swain County, and the Attorney General of North Carolina. Mr. Simon testified in surrebuttal to the rebuttal testimony of Mr. Popovich. Mr. Popovich testified on rebuttal concerning, among other things, the apportionment of capacity and energy between Alcoa, its subsidiaries, and the Tennessee Valley Authority as provided in the New Fontana Agreement, and related documents.

Following the close of the evidence, all parties were asked to file briefs and proposed Findings of Fact and Conclusions of Law by noon, May 24, 1977 (later extended to noon, May 25, 1977).

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 Nantahala Power and Light Company is duly organized as a public utility company under the laws of North Carolina, subject to the jurisdiction of this Commission, and is holding a franchise to furnish electric power in the western portion of the State of North Carolina under rates and service regulated by the Utilities Commission as provided in Chapter 62 of the General Statutes.

2. That the test period for the purposes of this proceeding is the 12-month period ended December 31, 1975. Nantahala is seeking an increase in its rates and charges to North Carolina retail customers of approximately $1,830,791 based upon operations in said test year.

3. That the reasonable original cost of Nantahala's property used and useful in providing intrastate electric service to its retail customers in North Carolina is $46,150,057. The reasonable accumulated provision for depreciation is $24,439,669, and the reasonable original cost less depreciation is $21,710,388.

4. That the reasonable replacement cost of Nantahala's property used and useful in providing retail electric service in North Carolina is $60,372,228.

5. That the fair value of Nantahala's utility plant used and useful in providing electric service to its retail customers in North Carolina should be derived from giving 40% weighting to the original cost less depreciation of Nantahala's utility plant in service and 60% weighting to the trended original cost less depreciation of Nantahala's utility plant. By this method, using the depreciated original cost of $21,710,388 and the reasonable replacement cost of $60,372,228, this Commission finds that the fair value of said utility plant devoted to intrastate retail electric service in North Carolina is $44,907,492. This fair value includes a reasonable fair value increment of $23,197,104.

6. That the reasonable allowance for working capital is $973,393.

7. That the fair value of Nantahala's plant in service used and useful in providing electric service to its retail

customers within the State of North Carolina of $44,907,492 plus the reasonable allowance for working capital of $973,393 yields a reasonable fair value of Nantahala's property in service to North Carolina retail customers of $45,880,885.

8. That Nantahala's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $9,434,033 under the present rates and, after giving effect to the Company's proposed rates, are $11,264,824.

9. That the level of test year operating expenses, after accounting and pro forma adjustments, including taxes and interest on customer deposits is $8,241,695 which includes an amount of $1,233,907 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end levels.

10. That Nantahala should be allowed to increase its rates and charges so as to produce $1,598,918 in additional annual gross revenues in order for the Company to have an opportunity, through efficient management, to earn the rate of return on the fair value of its property which the Commission has found to be just and reasonable.

11. That the reasonable original cost capital structure for Nantahala is as follows:

42.09% -- Debt (long- and short-term)
39.45% -- Common equity
18.46% -- Cost-free capital

and when the fair value increment is added, the reasonable fair value capital structure becomes:

20.81% -- Debt (long- and short-term)
70.06% -- Common equity
9.13% -- Cost-free capital

12. That the fair rate of return that Nantahala should have the opportunity to earn on the fair value of its North Carolina investment for retail operations is 4.20%, which requires additional annual revenues from North Carolina retail customers of $1,598,918 based upon the historical test year (12 months ended December 31, 1975) level of operations as adjusted for known changes subsequent thereto. This rate of return on the fair value of Nantahala's property yields a fair rate of return on the fair value equity of Nantahala Power and Light Company of approximately 3.75%. The full amount of additional revenues requested by Nantahala in this proceeding would produce rates of return in excess of those hereinabove approved and, hence, are unjust and unreasonable.

13. That the purchased power adjustment clause is a just and reasonable rate and a reasonable method by which Nantahala can recover a part of its reasonable operating

expense and that the base cost in the purchased power adjustment clause should be .409234¢/KWH.

14. That the overall quality of electric service provided by Nantahala to its North Carolina retail customers is adequate, although Nantahala should take steps to prevent instances of voltage fluctuations outside the Commission's prescribed tolerance levels of 114-126 volts.

15. That Nantahala should undertake load surveys of its own for the purpose of developing demand cost allocation factors.

16. That the rate design proposed by Nantahala shall be modified as set forth in the Commission's evidence and conclusions for this Finding of Fact and as set forth in Appendix 1 attached hereto.

17. That while Tapoco, Inc. (Tapoco), and Nantahala are both wholly-owned subsidiary corporations of Alcoa, they are separate corporations with their own individual identities.

18. That Tapoco is neither the parent corporation nor a subsidiary corporation of Nantahala.

19. That neither Alcoa nor Tapoco is nor has been a party participant in this proceeding.

20. That the New Fontana Agreement, entered into by TVA, Alcoa, Nantahala and Tapoco, and the resultant Apportionment Agreement between Tapoco and Nantahala are just and reasonable.

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

The evidence for the foregoing Findings is contained in the verified Application, the testimony of Company witness Jontz and the record as a whole. Such Findings are essentially procedural and jurisdictional in nature and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Both Staff witness Carter and Company witness Clammer testified that gross retail electric plant in service is $46,150,057 and the reserve for depreciation is $24,439,669 resulting in net retail electric plant in service of $21,710,388.

Company witness Buchanan testified that a very large part of the Company's plant was constructed during World War II and its cost was amortized pursuant to then Section 124 of the Internal Revenue Code under Necessity Certificates issued by the Federal government permitting amortization over a five-year period. Under the Company's normal depreciation rates, this plant would have been depreciated over its expected useful life. Mr. Buchanan further

testified that the depreciation reserve had been restated downward to what it would have been had the Company's normal depreciation rates been used. Unless this adjustment is made, the reserve for depreciation would not properly reflect the estimated depreciation which has occurred to date, based upon the normal useful life of such assets. Mr. Buchanan also testified that the Commission issued an Order on February 3, 1976, approving an adjustment to restate Nantahala's books and records as if Nantahala had depreciated these assets on a straight-line basis using normal lives.

The Commission concludes that Nantahala's net retail electric plant in service for the purpose of fixing rates in this proceeding is $21,710,388, consisting of gross retail plant in service of $46,150,057 and accumulated depreciation of $21,710,388. The depreciation reserve of $21,710,388 reflects an adjustment of $6,083,307 which decreased the accumulated depreciation reserve as was permitted by this Commission in Docket No. E-13, Sub 26. This Commission Order approved the restatement of Nantahala's books of account to reflect and to provide for straight-line depreciation of emergency facilities constructed during World War II under certificates of necessity which were amortized over a 60-month period in accordance with the provisions of IRC Sec. 124. This change in accounting policy for Nantahala is in accordance with the pro forma accounting adjustments made by this Commission for rate-making purposes in all previous Nantahala rate cases and appropriately restates Nantahala's books and records as if straight-line depreciation had been used instead of accelerated amortization. It is appropriate to use straight-line depreciation for rate-making purposes. If Nantahala had come to this Commission requesting a rate increase during the years that the rapid amortization was taken on these assets, the Commission would not have permitted the use of accelerated amortization for rate-making purposes.

One other item concerning plant in service should be mentioned. There were a number of questions raised during the hearing concerning whether land known as the Needmore site and Dillsboro site were included in plant in service. Both Company witness Clammer and Staff witness Carter testified that the Needmore site is not included in plant in service. Mr. Clammer further testified that the Dillsboro site is not included in plant in service. The Commission takes judicial notice of Nantahala's Annual Report for 1975 filed with this Commission. Page 201 of the report shows that the Dillsboro property and Needmore property are both classified as nonutility property, Account 121, and are not included in plant in service. They comprise the nonutility property amount of $395,081 shown on Buchanan Exhibit No. 1, Sheet 1 of 9.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4, 5, AND 7

Replacement cost envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in utility plant. Company witnesses testified with respect to the determination of the net trended original cost valuation of Nantahala Power and Light Company's properties used and useful in providing electric service to North Carolina as of December 31, 1975.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the net replacement cost as calculated by Company witnesses. Staff witness Curtis testified, and the Commission concurs, that the replacement cost less depreciation of Nantahala Power and Light Company's plant in service at December 31, 1975, is $60,372,228.

Having determined the appropriate original cost less depreciation to be $21,710,388 and the appropriate replacement cost less depreciation to be $60,372,228, the Commission must determine the fair value of Nantahala Power and Light Company's net plant in service.

Company witness Popovich used the depreciated replacement cost as a measure of fair value while Company witness Breitling chose a 1/3 weighting of depreciated replacement cost as a measure of fair value. Staff witness Curtis proposed weighting of net original cost and net replacement cost based primarily on the capital structure of the Company. Mr. Curtis gave a 50-50 weighting to net original cost and net replacement cost. The Commission concludes that the appropriate weighting to be given the net original cost is 40% and the remaining 60% to be given the net replacement cost. By weighting the net original cost of $21,710,388 by 40% and the net replacement cost of $60,372,228 by 60%, the fair value of Nantahala's utility plant in service is $44,907,492.

The fair value of Nantahala's plant in service to its customers in North Carolina of $44,907,492, plus the reasonable allowance for working capital of $973,393, yields a reasonable fair value of Nantahala's property in service of $45,880,885.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Clammer and Staff witness Carter each presented a different amount for the working capital allowance shown by the chart below:

	Company Witness Clammer	Staff Witness Carter
Materials and supplies	$551,480	$ 550,898
Average prepayments	7,398	7,398
Cash	783,464	719,903
Compensating bank balances	-	426,780
Average tax accruals	224,010	316,995
Customer deposits	184,009	188,734
	$934,323	$1,199,250

The first item of difference listed above concerns materials and supplies. Company witness Clammer included the retail portion of the average balance of the materials and supplies inventory maintained by Nantahala during the test period while Staff witness Carter included the retail portion of the end-of-period balance. There is only a $582 difference between the two amounts. In determining the allowance for working capital, the Commission has consistently used the end-of-period balance of materials and supplies unless the end-of-period balance is abnormally high or low, compared to the average balance. In this instance, the end-of-period balance of materials and supplies is not abnormally high or low; therefore, the Commission finds that, consistent with other recent rate case decisions, the appropriate level of materials and supplies to be included in the working capital allowance is the end-of-period retail amount of $550,898.

The next component of the allowance for working capital listed above is average prepayments. Both witnesses testified that the appropriate level of average prepayments is $7,398; therefore, the Commission concludes that the average prepayments component of the allowance for working capital is $7,398.

The next component of the working capital allowance to be discussed is the cash component. Company witness Clammer included an amount of $632,502 representing 1/6 of operating expenses, excluding purchased power expense, and an amount of $150,962 representing a cash allowance to cover purchased power expense, for a total cash working capital allowance of $783,464. Staff witness Carter included a cash allowance of $719,903, which he testified was 1/8 of operating expenses, excluding purchased power expense. The Commission's analysis of Mr. Carter's computation shows that Mr. Carter inadvertently included purchased power expense in computing his cash working capital allowance of $719,903. The Commission has consistently excluded purchased power expense in determining the cash component of the working capital allowance in recent electric rate proceedings and will do so in this proceeding.

Company witness Buchanan testified that a factor of 1/6 of operating expenses, excluding purchased power expense, was

used based on a lead-lag study the Company had conducted for the 12 months ended November 30, 1975. In his prefiled testimony Mr. Buchanan testified that Nantahala renders billings to its customers at the beginning of the month rather than on a cyclical basis throughout the month for electricity furnished to the date of the customer's last meter reading. Only Nantahala's urban customers and those nonurban commercial and industrial customers who have demand meters are billed monthly and have their meters read monthly. All other billings are based upon bimonthly meter readings. As such, over 54% of all of Nantahala's revenue is based upon billings issued for electrical consumption once every two months; therefore, on the average, such customers receive electrical service 30 days prior to the date on which the bimonthly meter readings are taken. Mr. Buchanan further testified that, on the average, bimonthly customers receive the benefit of electrical service 77 days prior to the date on which the billings are prepared and placed in the mail for delivery and that the period for monthly customers is 45 days. Mr. Buchanan also testified that on the average there is a 12-day lag from customer billing date to collection date. Mr. Buchanan stated that in view of the 45-day lag in billing monthly customers and the 77-day lag in billing bimonthly customers, a 12-day lag in the collection of revenue from its customers, a 15-day lag in the payment for purchased power expense and weekly and monthly labor payroll charges, the utilization of the 1/6 factor is reasonable. On cross-examination Mr. Buchanan admitted that for monthly customers there can be anywhere from a 15-day lag to a 45-day lag and that Nantahala experiences a 45-day lag only on those monthly customers whose meters are read on the first day of the month. Mr. Buchanan also admitted that for customers who are billed on a bimonthly basis there can be anywhere from a 31-day lag to a 61-day lag, instead of the 77-day lag contained in his direct testimony.

The Commission has studied both the direct and cross-examination testimony of Mr. Buchanan concerning the lead-lag study. The Commission finds that Mr. Buchanan has not proven that Nantahala needs a 60-day (1/6 factor) cash working capital allowance nor an additional cash allowance for purchased power expense. Mr. Buchanan testified on cross-examination that for its monthly customers Nantahala has a range of a 15-day lag to a 45-day lag and for its bimonthly customers a 31-day lag to a 61-day lag. This should average to be approximately a 30-day lag for monthly customers and a 46-day lag for bimonthly customers. Mr. Buchanan testified that 54% of Nantahala's revenue is based upon billings to its bimonthly customers. If an approximate composite revenue lag day is determined by giving 54% weighting to the average 46-day lag for bimonthly customers and giving 46% weighting to the average 30-day lag for monthly customers, a revenue lag of approximately 39 days results. Also, Mr. Buchanan testified that Nantahala has approximately a 12-day lag from the billing date to customer payment date, which would total approximately a 51-day

revenue lag. From this amount the lag in the payment of operating expenses would have to be deducted to arrive at the net revenue lag days. This would have the effect of reducing the 51-day revenue lag. Mr. Buchanan testified that Nantahala did not conduct a lead-lag study for all types of expenses; however, he did testify that for payroll expense the Company incurred weekly payroll expense approximately seven days before having to pay the employees and the lag in the payment for monthly payroll expense was approximately 15 days. The Commission recognizes that Nantahala's response to item 5g(1) of the minimum filing requirements indicates that Nantahala has a 34-day lag in the payment of purchased power expense. Based on the above facts, the Commission concludes that Nantahala has not proven that it needs a working capital allowance of 1/6 of operating expenses, excluding purchased power expense, plus an additional allowance for purchased power expense. In our opinion, the lag in the payment of operating expenses will reduce Nantahala's approximate 51-day revenue lag below 45 days which is the allowance consistently included by the Commission in recent electric and gas rate proceedings. The Commission concludes that a cash working capital allowance of 45 days' (1/8 factor) operating expenses, excluding purchased power expense, is reasonable and will be the basis for determining the cash working capital allowance in this proceeding. Under Evidence and Conclusions for Finding of Fact No. 9, the Commission concludes that operating expenses, excluding purchased power expense, are $3,952,366 and 1/8 of this amount, or $494,046, is the proper amount for the cash component of the working capital allowance.

The next component of the working capital allowance listed above is compensating bank balances. Staff witness Carter included $426,780 in compensating bank balances while Company witness Clammer did not include compensating bank balances as a component of the working capital allowance. The Commission has consistently included compensating bank balances as a component of the allowance for working capital in recent rate proceedings and will include $426,780 in compensating bank balances as a component of the working capital allowance in this proceeding.

The next component of the working capital allowance to be discussed is the deduction of average tax accruals. Staff witness Carter deducted an amount of $316,995, which represents the average amount of tax accruals recorded on the books during the test year. Company witness Clammer deducted an amount of $224,010, which represents the book amount of $316,995 less $92,985, representing the average tax accrual effects of adjustments to retail tax expense made by Company witness Buchanan. Mr. Clammer later increased the deduction of average tax accruals to $427,666 to recognize the average tax accrual effects of adjustments to taxes resulting from the proposed rate increase.

The Commission concludes that the appropriate amount to include as a deduction for average tax accruals is $316,995.

This is the amount of working capital which was available to Nantahala during the test year from tax accruals. The Commission believes that adjusting tax accruals for the effects of accounting and pro forma adjustments and for the effect of the proposed rate increase is an undue refinement. The Commission has consistently deducted the book amount of average tax accruals in determining the allowance for working capital and will do so in this proceeding.

The final component of the working capital allowance to be discussed is customer deposits. Company witness Clammer deducted an amount of $184,009, which represents the average balance of customer deposits during the test year, while Staff witness Carter deducted $188,734, which represents the end-of-period balance of customer deposits. The Commission concludes that the customer deposits component of the working capital allowance should be based on the end-of-period balance. The Commission has examined Nantahala's response to item 5q of the minimum filing requirements concerning customer deposits. This information shows that the end-of-period balance of $188,734 is a more representative level than the average balance of $184,009. During the period August 1975 to December 1975, the balance of customer deposits ranged from $188,057 to $192,527. This clearly demonstrates that for the purpose of determining a level of customer deposits which should be available to Nantahala in the future the end-of-period level of $188,734 should be used, and the Commission concludes that the customer deposits component of the working capital allowance is $188,734.

The Commission concludes that, consistent with other recent rate case decisions, the formula method of determining the working capital allowance should be used in this case. The Commission has examined all components of the working capital allowance and has made its determination regarding the proper amount of each component as stated in the preceding paragraphs. The Commission concludes that the proper allowance for working capital to be used in this proceeding is $973,393.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Company witness Clammer and Staff witness Carter presented testimony concerning the representative end-of-period level of operating revenue. The following chart sets forth the end-of-period revenue recommended by Company witness Clammer after giving effect to his rebuttal testimony in which he proposed a reduction of $147,343 in purchased power clause revenue and the end-of-period revenue recommended by Staff witness Carter after eliminating the overstatement of revenue caused by an error in the August purchased power clause adjustment factor which Mr. Carter agreed to on cross-examination.

	Company Witness Clammer	Staff Witness Carter
Sales of electricity	$8,887,442	$9,317,705
Other operating revenue	55,898	54,689
Total operating revenue	$8,943,340	$9,372,394

There is a $429,054 difference between the end-of-period revenue amount testified to by the witnesses. The $429,054 difference is comprised of the following items:

	Item	Amount
1.	Difference in amount recommended for annualization factor or growth adjustment	$163,853
2.	Difference in adjustment recommended to annualize purchased power adjustment clause revenue	265,201
	Total	$429,054

The first item the Commission will discuss is the $163,853 difference in revenue resulting from the different methods used by the two witnesses to annualize revenue to an end-of-period level. Company witness Clammer increased revenue by $196,631 to arrive at his annualized end-of-period revenues. By applying Mr. Clammer's methodology to the revenue after giving effect to his proposed decrease in revenue on rebuttal, the adjustment required to annualize revenue to an end-of-period level is $193,375 [($8,897,308 - $147,343) x 2.2%]. The 2.2% represents the increase in end-of-period retail customers over average retail customers during the test year. Staff witness Carter increased revenue by $357,228 to arrive at his annualized end-of-period revenues. Mr. Carter based his end-of-period adjustment in part on Staff witness Bumgarner's testimony. Mr. Bumgarner determined that, if the customers at the end of the test period had been on Nantahala's system the entire test year and if the increased usage per customer experienced during the test year had been annualized, Nantahala would have sold an additional 13,090,548 KWH of electricity. He testified that Nantahala would have collected $241,731 in additional revenue under base rates from the sale of the additional 13,090,548 KWH. Staff witness Carter testified that Nantahala would have received $115,497 in additional revenue under the purchased power clause based on the sale of the additional 13,090,548 KWH. Mr. Carter's adjustment of $357,228 is composed of the $241,731 increase proposed by witness Bumgarner and the $115,497 increase in purchased power clause revenues proposed by himself.

The Commission concludes that the method of determining the annualized level of revenue used by Staff witnesses Carter and Bumgarner is the proper method to use in this

proceeding because it recognizes the increase in customer usage and customer growth while Mr. Clammer's method only considers customer growth. The Staff witnesses' method of determining additional KWH sales based on the actual growth in the number of customers and increased usage per customer during the test year and the pricing of these additional KWH based on existing rates is a more reliable annualization method than Mr. Clammer's method of increasing actual test-period revenue by the percentage growth in the number of customers during the test year. Mr. Clammer's method fails to recognize any increase in revenue resulting from increased KWH usage per customers during the test year.

The Commission concludes that the method used by Mr. Carter to determine the adjustment required to annualize revenue to an end-of-period level should be adopted in this proceeding. However, the Commission does not accept the dollar amount of Mr. Carter's adjustment. In determining his revenue adjustment, Mr. Carter used an additional purchased power expense of $269,971 associated with the additional 13,090,548 KWH. The $269,971 amount was provided by Staff witness Williams. The proper adjustment to purchased power expense is $184,749, which is discussed under Evidence and Conclusions for Finding of Fact No. 9. By substituting $184,749 for the $269,971 amount used by witness Carter, the adjustment to annualize revenues to an end-of-period level is $320,768. This adjustment is composed of base rate revenue of $241,731 and purchased power clause revenue of $79,037. The amount is calculated using the base rates and the purchased power adjustment clause in effect during the test year. The purchased power clause revenue will be adjusted and is discussed in the succeeding paragraphs of this section.

The next difference listed above concerns the appropriate end-of-period level of purchased power clause revenue. Both witnesses are in agreement that the actual retail purchased power adjustment clause revenue during the test year was $539,642. Staff witness Carter increased this amount by $117,858 to state purchased power adjustment clause revenue at $657,500 on an end-of-period basis. Mr. Carter testified that he annualized purchased power clause revenue based on Nantahala's current purchased power adjustment clause, test-period retail KWH sales subject to the purchased power clause, and the December 1975 level of purchased power cost. Mr. Carter recomputed the monthly purchased power adjustment clause factor for each month of the test year based on the purchased power cost for the month of December 1975. Based on these recomputations, Mr. Carter testified that if the December 1975 purchased power rates had been in effect the entire test year Nantahala would have received an additional $117,858 in purchased power adjustment clause revenue. On cross-examination, Mr. Carter testified to the effect that the amount of his recommended adjustment would be appropriate only if the current purchased power adjustment clause were to remain in effect in the future; however, if the current purchased power adjustment clause is changed,

the dollar amount of the adjustment would be different. Mr. Carter testified as follows:

> "I was not necessarily determining end-of-period level of purchase power revenues on this schedule. What I was doing is determining what the purchase power revenues would have been based on the formulas used during the test period based on December, 1975, purchase power costs. Now, what I would recommend that the Commission do in this proceeding is whatever base that they decide they want to include in the purchase power clause, multiply that base times the test period retail KWH sales, and adjust revenues to that figure, because in the future, assuming that the Commission in this proceeding, changes the purchase power clause,....., all these revenues that they have been receiving under the purchase power clause probably is going in the basic rates from then on out." (Vol. VIII, Pages 25 and 26)

Company witnesses Buchanan and Clammer did not make an adjustment to purchased power clause revenue in their direct testimony and exhibits, although Mr. Buchanan did make an adjustment increasing purchased power expense. On rebuttal testimony, Mr. Clammer proposed an adjustment decreasing actual test-period purchased power clause revenue by $147,343. This results in end-of-period purchased power clause revenue of $392,299 ($539,642 - $147,343). Mr. Clammer testified that $392,299 is the end-of-period amount of purchased power clause revenue after eliminating from the formula power purchased for and sales to the Mead Corporation during the period November 1973 through December 1974. Mr. Clammer testified that during the test year all monthly purchased power adjustment clause factors were computed using purchases of power for and sales of electricity to the Mead Corporation, which discontinued operations in Nantahala's territory in January 1975. Mr. Clammer further testified that after the test year the purchases of power for and sales of electricity to the Mead Corporation would not be included in determining the monthly purchased power adjustment clause factors and that omission of the purchases of power for and sales of electricity to the Mead Corporation would reduce the monthly purchased power adjustment clause factors from the test year levels, thereby decreasing purchased power clause revenue on an end-of-period basis.

The Commission has carefully examined the direct testimony, exhibits, cross-examination, and rebuttal testimony concerning the appropriate level of purchased power clause revenue. The Commission concludes that neither the adjustment proposed by Company witness Clammer nor the adjustment proposed by Staff witness Carter is appropriate in this proceeding. The current base rates of the Company are designed to recover purchased power costs of .222928¢ per KWH. This same amount is the base in the current purchased power clause. The annualized level of purchased

power cost is .436870¢ per KWH (Nantahala Williams Cross Examination Exhibit No. 1). The annualized level of test-period KWH sales is 390,122,456. We believe that the proper level of purchased power clause revenue should be determined by deducting the power cost per KWH of .222928¢ from the adjusted test year level of .436870¢ per KWH. This difference of .213942¢ per KWH multiplied by the annualized test year KWH sales of 390,122,456 is equal to the proper end-of-period level of purchased power revenue of $834,636. If we deduct the actual test year level of purchased power revenue of $539,642 from the $834,636, we arrive at a difference of $294,994, which is the increase required to state purchased power revenue on an end-of-period level. It is appropriate to match purchased power clause revenue with purchased power expense if the base of the purchased power clause is changed because Nantahala will be collecting through its base rates revenue which was previously collected under its purchased power clause. There will be no lag in collecting this amount of revenue. The end-of-period level of KWH sales after the annualization adjustment is 390,122,456, consisting of actual retail KWH sales of 377,031,908 plus a KWH annualization adjustment of 13,090,548. The Commission concludes that the increase required to bring annualized purchased power revenues to an end-of-period level is $294,994. This compares with the increase proposed by Mr. Carter of $233,355 ($772,997 - $539,642) and the decrease proposed by Mr. Clammer of $138,673 ($539,642 - $400,969). The end-of-period level of purchased power revenue included by Mr. Carter is shown below:

Purchased power cost recovered under purchased power clause:	
Carter Exhibit 1, Schedule 3-1, revised	$657,500
Carter Exhibit 1, Schedule 3, revised ($357,228 - $241,731)	115,497
Total	$772,997

The end-of-period purchased power revenue included by Mr. Clammer is shown below:

Purchased power cost recovered under purchased power clause (Clammer Rebuttal Exhibit)	$392,299
Growth adjustment ($392,299 x 2.2%)	8,670
Total	$400,969

Based on the discussion of the evidence presented in this proceeding, the Commission concludes that the appropriate level of operating revenue on an end-of-period basis is $9,434,033 ($9,372,394 + $834,636 - $772,997).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Clammer and Staff witness Carter presented testimony and exhibits concerning the operating revenue

deductions which they believed should be used by the Commission for the purpose of fixing rates in this proceeding. The amounts claimed by each witness are summarized as follows:

	Company Witness Clammer	Staff Witness Carter
Purchased power expense	$1,570,849	$1,806,855
Other operation and maintenance expenses	3,878,880	3,944,458
Depreciation	1,261,176	1,233,907
Taxes other than income	887,228	913,074
Income taxes	294,991	340,159
Interest on customer deposits	8,003	7,908
Total	$7,901,127	$8,246,361

There is a $345,234 difference between the level of end-of-period operating revenue deductions testified to by the witnesses. The $345,234 difference is comprised of the following items:

	Item	Amount
1.	Difference in amount recommended for annualization factor, or growth adjustment	$194,186
2.	Adjustment by Staff witness Carter to increase pension expense	34,430
3.	Adjustment by Staff witness Carter to increase group insurance expense	24,814
4.	Adjustment by Staff witness Carter to increase interest on customer deposits	78
5.	Adjustment by Staff witness Carter to increase gross receipts taxes expense	15,912
6.	Difference between State and Federal income tax expense resulting from differences 2 through 5 above, the deduction of different amounts of interest expense, and the use of a different amount for the Federal surtax exemption	75,814
	Total	$345,234

The first item the Commission will discuss is the $194,186 difference in operating revenue deductions resulting from the different methods used by the two witnesses to calculate the annualization adjustment. Company witness Clammer increased operating revenue deductions by $176,923 to arrive at his annualization adjustment. Mr. Clammer increased his adjusted operating revenue deductions, with the exception of

income taxes and property taxes, by multiplying the adjusted balances by 2.2|%. The 2.2|% represents the increase in the number of end-of-period retail customers over average retail customers during the test year. Mr. Clammer did not make an annualization adjustment to property taxes. He made a direct calculation of State and Federal income taxes based on his annualization adjustments to revenue and operating revenue deductions. Staff witness Carter made an annualization adjustment of $37|,|09 to operating revenue deductions. To annualize transmission and distribution expenses, Mr. Carter multiplied the adjusted test-period cost per KWH sold by the additional KWH sales associated with the annualization adjustment proposed by Staff witness Bumgarner. Mr. Carter testified that he increased customer accounts expense, sales expense, administrative and general expenses, and payroll and excise taxes on the basis of the 2.2|% increase in end-of-period retail customers over average retail customers during the test year. Mr. Carter further testified that the increase in purchased power expense of $269,97| associated with the annualization adjustment was provided to him by Staff witness Williams and was based on the cost which Nantahala would have had to pay for the additional KWH if it had been purchased during the test year. Mr. Carter further testified that his annualization adjustments to gross receipts tax and State and Federal income taxes were made by direct calculation resulting from annualization adjustments to operating revenue and expenses.

The Commission concludes that the method of determining the annualized level of operating revenue deductions used by Staff witness Carter is the proper method to use in this proceeding. Mr. Carter's method of determining the increase in operating revenue deductions recognizes that some operating expenses vary with the number of customers and are not affected by the number of KWH sales while other operating expenses vary with the volume of KWH sales instead of a change in the number of customers. Although the Commission agrees with Mr. Carter's method of determining the increase in operating revenue deductions associated with the annualization adjustment, the Commission does not agree with the amount of $37|,|09. In determining his increase in operating revenue deductions associated with the annualization adjustment, Mr. Carter used an amount of $269,97| for purchased power expense, which was furnished to him by Staff witness Williams. The Commission concludes that the increase in purchased power expense associated with the annualization adjustment is $|84,749, based on an end-of-period purchased power cost of .436870¢/KWH (Nantahala Williams Cross-Examination Exhibit |). Also, Mr. Carter's recommended adjustment to gross receipts taxes will have to be decreased because under Evidence and Conclusions for Finding of Fact No. 8, the Commission reduced Mr. Carter's recommended annualization adjustment to revenue. Additionally, State and Federal income taxes will have to be increased following the Commission's Findings concerning the annualization adjustments to revenue, expenses, and gross

receipts taxes. The Commission concludes that the appropriate increase in operating revenue deductions related to the annualization adjustment is $309,745, or $61,364 less than the amount included by Mr. Carter. The $61,364 reduction is caused by the following items:

A.	Decrease in purchased power expense ($269,971 - $184,749)		$(85,222)
B.	Decrease in gross receipts taxes ($357,228 - $320,768) x 6%		(2,188)
C.	Increase in Federal and State income taxes:		
(i)	Decrease in revenue, discussed under Evidence and Conclusions for Finding of Fact No. 8 ($357,228 - $320,768)	$(36,460)	
(ii)	Decrease in purchased power cost (Item A)	85,222	
(iii)	Decrease in gross receipts taxes (Item B)	2,188	
	Subtotal	50,950	
(iv)	Combined State and Federal income tax rate	.5112	
(v)	Increase in income taxes		26,046
D.	Total		$(61,364)

The Commission will now discuss the adjustments to pension and insurance expense. Mr. Carter testified that he increased pension expense by $34,430 and insurance expense by $24,814. He testified that these adjustments were based on the number of employees during the test year and the contribution rates effective January 1, 1977.

The Commission concludes that these two adjustments proposed by Mr. Carter are proper and should be recognized for rate-making purposes in this proceeding. These increased contribution rates are currently being paid by Nantahala and are appropriate adjustments under G.S. 62-133(c), which states 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 costs, 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."

The next item the Commission will discuss is the $78 adjustment made by Staff witness Carter increasing the interest expense on customer deposits. Mr. Carter testified that the $78 adjustment was based on the end-of-period level

of customer deposits and the effective interest rate accrued on customer deposits during the test year. In determining the allowance for working capital under Evidence and Conclusions for Finding of Fact No. 6, the Commission discussed the merits of including average customer deposits versus including end-of-period customer deposits as a deduction. The Commission concluded that the end-of-period balance should be deducted; therefore, the Commission concludes that Mr. Carter's adjustment of $78 is appropriate since it is based on end-of-period customer deposits.

The Commission will now discuss the $15,912 difference in gross receipts tax expense. The difference of $15,912 results solely from the $265,201 difference in purchased power clause revenue as recommended by the two witnesses, excluding the annualization adjustment, as was discussed under Evidence and Conclusions for Finding of Fact No. 8. Mr. Clammer testified that the end-of-period level of gross receipts taxes, exclusive of the annualization adjustment, was $520,381. Mr. Carter testified that the amount was $536,293. The Commission does not agree with either of these amounts. The Commission will compute the appropriate adjustment to gross receipts taxes. Under Evidence and Conclusions for Finding of Fact No. 8, the Commission concluded that the end-of-period level of purchased power clause revenue to be included in test year operations was $834,636, which is $61,639 more than the amount included by Staff witness Carter. The Commission concludes that an additional adjustment of $3,698 ($61,639 x 6%) should be made to gross receipts taxes recommended by Staff witness Carter. The Commission concludes that the appropriate end-of-period level of gross receipts taxes on the adjusted test-period revenues is $561,425.

The final area of difference in the determination of total operating revenue deductions concerns the amount of test-period State and Federal income tax expense before the annualization adjustment. Company witness Clammer testified that the end-of-period level of State and Federal income taxes was $278,863 while Staff witness Carter testified that the level was $354,677. The witnesses' income tax amounts were different because different levels of operating revenue and operating revenue deductions were claimed by each witness in computing taxable income. These differences in operating revenues and operating revenue deductions have previously been discussed and the Commission does not deem it necessary to recapitulate these differences. In addition to the proper amounts of operating revenue and operating revenue deductions to be considered in arriving at taxable income, there are two items which must be considered. The first item is interest expense which the Commission will now discuss. Company witness Clammer and Staff witness Carter each used a different amount of interest expense as a deduction in arriving at taxable income. Company witness Clammer used an amount of $700,259 while Staff witness Carter used an amount of $728,744. The second item of difference is the amount of Federal surtax exemption used by

each witness in computing Federal income taxes. Company witness Clammer used an amount of $6,255, which is the retail portion of $6,500, while Staff witness Carter used an amount of $12,991, which is the retail portion of $13,500. The Commission concludes that the retail surtax exemption of $12,991 used by Staff witness Carter is appropriate because $13,500 is the Federal surtax exemption currently in effect. The Commission does not agree with either the $700,259 or the $728,744 amount of interest expense used by the two witnesses. The Commission concludes that $721,559, as calculated on Schedule II of this Order, is the proper amount of interest expense to use in the calculation of State and Federal income taxes.

The Commission concludes that the proper amount of State income taxes is $59,175 and Federal income taxes is $357,842. The following schedule sets forth the State and Federal income tax calculations:

Line No.	Item	Amount State (a)	Amount Federal (b)
1.	Operating income before income taxes and fixed charges (Schedule I)	$1,609,355	$1,609,355
2.	Add: Normal depreciation	98,448	192,098
3.	Deduct: Fixed charges	721,559	721,559
4.	State taxable income	986,244	
5.	State income tax (Line 4 x 6%)	$ 59,175	59,175
6.	Federal taxable income		1,020,719
7.	Federal income taxes (Line 6 x 48% - $12,991)		476,954
8.	Less: Investment tax credit amortization		19,295
9.	Deferred income taxes - prior years		99,817
10.	Federal income taxes, net		$ 357,842

The Commission concludes that the appropriate level of retail operating revenue deductions, including the annualization adjustment, is $8,241,695 which includes purchased power expense of $1,721,633, other operating expenses of $3,944,458, depreciation expense of $1,233,907, interest on customer deposits of $7,908, taxes other than income of $916,772, State income taxes of $59,175, and Federal income taxes of $357,842.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

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, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions herein made by the Commission.

SCHEDULE I
NANTAHALA POWER AND LIGHT COMPANY
DOCKET NO. E-13, SUB 29
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

	Present Rates	Increase Approved	After Approved Increase
Operating Revenue:			
Sales of electricity:			
Base rates	$8,544,707	$2,433,555	$10,978,262
Purchased power clause revenue	834,637	(834,637)	-
Other operating revenue	54,689	-	54,689
Total operating revenue	$9,434,033	$1,598,918	$11,032,951
Operating Expenses:			
Purchased power	1,721,633		1,721,633
Production	586,348		586,348
Transmission	215,279		215,279
Distribution	1,258,922		1,258,922
Customer Accounts	503,377		503,377
Sales	408		408
Administrative and general	1,380,124		1,380,124
Interest on customer deposits	7,908		7,908
Subtotal	5,673,999		5,673,999
Depreciation	1,233,907		1,233,907
Taxes Other Than Income:			
Gross receipts taxes	561,425	95,935	657,360
Payroll	153,158		153,158
Property taxes	169,528		169,528
Excise and other taxes	32,661		32,661
Total taxes other than income	916,772	95,935	1,012,707
Total operating expenses	7,824,678	95,935	7,920,613
Operating income before income taxes	1,609,355	1,502,983	3,112,338
State income taxes	59,175	90,179	149,354
Federal income taxes	357,842	678,146	1,035,988
Total income taxes	417,017	768,325	1,185,342
Net operating income for return	$1,192,338	$ 734,658	$ 1,926,996

Investment in Electric Plant in Service		
Electric plant in service	$46,150,057	$46,150,057
Less: Accumulated depreciation	24,439,669	24,439,669
Net investment in electric plant in service	21,710,388	21,710,388
Allowance for Working Capital		
Material and supplies	550,898	550,898
Cash	494,046	494,046
Average prepayments	7,398	7,398
Compensating bank balances	426,780	426,780
Less: Average tax accruals	316,995	316,995
Customer deposits	188,734	188,734
Total working capital allowance	973,393	973,393
Net investment in electric plant in service and an allowance for working capital	$22,683,781	$22,683,781
Fair value rate base	45,880,885	45,880,885
Rate of return on fair value rate base	2.60	4.20

SCHEDULE II
NANTAHALA POWER AND LIGHT COMPANY
DOCKET NO. E-13, SUB 29
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

Capitalization	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Operating Income
Present Rates - Fair Value Rate Base				
Long-term debt:				
Alcoa	$ 7,882,607		7.20	$ 567,548
Wachovia	1,664,988		9.25	154,011
Total debt	9,547,595			721,559
Common equity (Including job development credits)	$32,145,868		1.46	470,779
Cost-free capital	4,187,422			
Total	$45,880,885	100.00	2.60	$1,192,338
Approved Rates - Fair Value Rate Base				
Long-term debt:				
Alcoa	$ 7,882,607		7.20	$ 567,548
Wachovia	1,664,988		9.25	154,011
Total debt	9,547,595			721,559
Common Equity (Including job development credits)	32,145,868		3.75	1,205,437
Cost-free capital	4,187,422			
Total	$45,880,885	100.00	4.20	$1,926,996

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 AND 12

Two witnesses testified on the subject of the cost of capital to Nantahala. Mr. Brennan, testifying for the Company, stated that the cost of equity to Nantahala is 14.50%. This cost rate for equity when combined with the expected year-end 1976 capital structure (44.3% debt, 38.5% common equity and 17.2% cost-free capital) and the embedded cost of debt (including an adjustment for an expected 1977 issue of additional debt) of 7.74% produced an overall return requirement of 9.01%.

Mr. Brennan's determination of the cost of equity to Nantahala was based on a study performed by him which included an analysis of the earnings/price ratios of a number of individual firms and groups of firms as an indication of the cost of equity to Nantahala. Additionally, Mr. Brennan relied on a regression analysis to determine the effect of the changing equity ratio of AT&T on that company's earnings/price ratio between 1965 and 1975 and used the results to indicate a cost of equity to Nantahala. Mr. Brennan also studied the financial ratios of a group of seven small electric utilities, interest coverage requirements, the bare rent theory, and achieved earnings on book equity of regulated and nonregulated firms. Mr. Brennan also calculated a cost of capital based on the fair value figures which the Company offered. Based on the Company's estimate of fair value, he found the cost of capital to be 6.66% (which implied a return to fair value common equity of approximately 7%).

Mr. Rosenberg, testifying for the Staff, reached somewhat different conclusions. He recommended that the Commission adopt rates designed to produce a return in excess of 8.53% on the original cost net investment of the Company. This recommendation was based on the results of a study which he performed to make a reasonable estimate of the cost of capital to Nantahala. In his study, Mr. Rosenberg used the actual capital structure at year-end 1976 adjusted to reflect the test year amount of deferred taxes and Job Development Credit. This capital structure consisted of 42.09% debt, 39.45% common equity, and 18.46% cost-free capital.

The cost rate for debt used by Mr. Rosenberg was 7.56% and the cost rate used for the equity component was 13.55%. The cost rate used for debt reflected the embedded cost of the notes held by Nantahala's parent corporation, Alcoa, and the likely effect of the issuance of additional long-term debt to fund the short-term debt outstanding as of December 31, 1976. The cost rate for the equity component was determined by a study which Mr. Rosenberg made to determine the cost of equity to Carolina Power and Light Company and Duke Power Company. In this study, Mr. Rosenberg applied the Discounted Cash Flow (DCF) technique to arrive at an estimated cost of equity for each of these utilities separately and averaged the estimated cost of equity for each company to arrive at an average cost of equity. This cost of equity when adjusted for the cost of issuing new equity securities was then felt by Mr. Rosenberg to be a reasonable cost of equity figure on which to base rates charged to the Nantahala's North Carolina retail customers.

There were three main differences in the conclusions which were reached by the two witnesses. The first was in the area of proper capital structure. Mr. Brennan used an expected year-end 1976 capital structure. Mr. Rosenberg used the actual year-end 1976 capital structure adjusted as noted above. Mr. Brennan's testimony was filed in November

1976 while Mr. Rosenberg's was filed in February 1977. This difference in filing dates probably accounts for the discrepancy.

The second difference concerns the embedded cost of debt. Mr. Brennan used a figure of 7.74% while Mr. Rosenberg used 7.56%. Here, as above, the difference seems largely to be one caused by the use of expected or anticipated data by Mr. Brennan as opposed to the actual data used by the Staff. Mr. Brennan allowed for the issuance of $3,000,000 of new debt by the Company at a rate of 9.25% early in 1977. Mr. Rosenberg allowed for the issuance of only $1,850,000 in new debt in order to fund the short-term debt outstanding at year-end 1976. Mr. Rosenberg used the same anticipated cost rate for the new debt (9.25%) as did Mr. Brennan so the difference between the 7.74% and 7.56% figures appears to be one of a difference in the amount of new debt to be issued.

The third difference is in the area of the required return on equity capital (13.55% for Mr. Rosenberg and 14.5% for Mr. Brennan). Although there was considerable difference in methodology employed, it appears that if Mr. Rosenberg's recommendation were adjusted to reflect the same allowance for selling expenses and market pressure as Mr. Brennan's (a 25% adjustment as compared to an 11% adjustment) the overall results would be similar.

The choice of the fair rate of return which the Company should be given the opportunity to earn on its investment in the service of the retail customers of North Carolina is one which requires the utmost care and the consideration of all facts of the case which pertain to this area. The cost of capital and the fair rate of return for a public utility are not to be found carved in stone, neither can they be found by the mindless application of <u>any</u> technique or formula; rather, the determination of the fair rate of return must be made using the Commission's judgment after analyzing the evidence presented.

In the instant case, the Commission was presented with two witnesses who spoke directly to the issue of the cost of capital for Nantahala. Additionally, Mr. Brennan illustrated how <u>he</u> would calculate the fair rate of return based on the Company's <u>assumed</u> rate base. First, the Commission must make a choice of the capital structure on which to base the original cost figures. For this purpose, we will adopt the capital structure as proposed by the Staff witnesses. This capital structure is composed of 42.09% debt (including both long- and short-term issues), 39.45% common equity and 18.46% cost-free capital. This appears to be a reasonable capital structure upon which to base utility rates and, as noted above, was the actual year-end 1976 capital structure. The choice of embedded cost of debt will likewise be made by adopting the Staff's recommendation of 7.56%. The determination of the reasonable cost of the common equity investment is not as simple as the choice of the capital structure and embedded cost of debt. The

evidence is somewhat conflicting even though much of the difference in the recommendations of the two witnesses can be resolved as noted above.

Mr. Brennan's testimony in this case was essentially similar to recent testimonies he prepared and filed in cases involving telephone and gas utilities. The Commission has found fault with his assertions in these cases and must do so again. That the same charts, figures, and schedules apply to all utilities, gas, telephone, or electric, large or small, with equal weight is questionable. Undoubtedly, many of these exhibits illustrate conditions in the capital markets, but so many of them end with the year 1975 that it is doubtful that they are illustrative of present conditions. Mr. Brennan's use of the earnings/price ratio as a "partial" cost of equity cannot be accepted. He noted that it ignores the expected growth in the earnings of the firm but he did not demonstrate satisfactorily how to include the growth in his calculations. His reliance on a regression analysis performed on AT&T which admittedly ignored many important factors (interest rates, for one) cannot be accepted as necessarily valid for AT&T and certainly not for Nantahala. The sheer number of techniques which he used and the difference in results which he got along with the *ad hoc* adjustments which he made make acceptance of his recommendations untenable.

Mr. Rosenberg attempted to apply the DCF technique to the two major North Carolina based electric utilities in an effort to determine a reasonable cost of equity for Nantahala. While we feel that his work in this area was well intentioned and that his conclusion that the cost of equity to these two firms (average 12.67%) probably lies within the zone of reasonableness, we cannot be bound by his recommendation of 13.55%. The recommendation was based on an allowance for an 11% premium in the projected market price to book value ratio of Nantahala (if it were traded on the securities markets) to account for the likely costs of issuing additional equity. Were the Company in the process or even contemplating such new issues, this might be a reasonable adjustment.

Since the Company does not appear to be contemplating such a move, this adjustment seems to be unneeded. We are not saying that because the Company does not plan to raise additional equity capital it should be forced to earn less than a fair rate of return; rather, we are saying that to allow the Company to recover costs which neither Applicant nor the Commission believes it will incur, would needlessly burden the ratepayers of Nantahala and result in a rate of return in excess of that which we deem fair. We believe that if the Company were able to earn a return of 13% on its book common equity, it would be able to meet its obligations to its investors and the rate-paying public in accordance with G.S. 62-133(b)(4).

The Commission believes that Nantahala is unique among the electric utilities it must regulate. Nantahala is insulated from many of the risks associated with the electric utility industry and this tends to reduce the risk to a potential investor. The Company buys its excess power needs from TVA and, thus, does not require massive sums of capital for construction of generating facilities. Further, Nantahala is permitted to recover any increased cost of this purchased power through the purchased power cost adjustment clause approved herein. The Commission believes that these factors are significant and support the return to Nantahala which the Commission is herein approving.

When the fair value increment of $23,197,104 is added to the equity component of capital, the fair value capital structure which supports the rate base becomes 70.06% common equity, 20.81% debt and 9.13% cost-free capital. By using these weightings and the above embedded debt cost figure (7.56%), the Commission concludes that a return of 4.20% on the fair value of Nantahala's investment in service to the retail customers in North Carolina is just and reasonable and that rates should be set so as to allow the Company the reasonable opportunity to earn that return. This level of return translates into a return of 3.75% on the equity component of fair value and a 13.47% return on the original cost or book equity of the Company.

In setting the return on rate base at this level, the Commission has considered all the relevant evidence on this matter and concludes that the return allowed here will fulfill both the letter and the spirit of the law. As the Supreme Court of North Carolina has said:

> "In this State the test of a fair rate of return is that laid down by the Supreme Court of The United States in Bluefield Water Works & Improvement Company vs. Public Service Commission of State of West Virginia, 262 U. S. 679, 43 S. Ct. 675, 67 L. Ed. 1176; that is, if the company continues to earn such a rate of return, will it be able to attract on reasonable terms the capital it needs for the expansion of its service to the public: See, G.S. 62-133(b)(4)." State ex rel. Utilities Commission vs. Morgan, 278 N. C. 235, 238 (1971).

The test then is not one of the absolute percentage rate of return allowed but of the effect. If Nantahala earns 4.20% on the fair value of its investment in service to its North Carolina retail customers, will it be able to discharge its duties to its investors and the rate-paying public? The Commission believes that it will and that the weight of the evidence supports this conclusion.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Both Nantahala and Commission Staff witnesses testified concerning the need for a purchased power cost adjustment

clause. Such a clause is a method by which both Nantahala and its customers can be protected from changes in the price of power purchased by Nantahala from TVA.

The proposed formula, which is an improvement over the clause currently being used, is of the same general type as the formula adopted by the Commission in proceedings for rate increases based solely on the cost of fuel pursuant to G.S. 62-134(e). The pass-through of changes in purchased power costs to Nantahala's customers is appropriate when closely monitored because purchased power represents a large portion of Nantahala's total expenses, is subject to wide cost variations, and is largely beyond Nantahala's control.

The base unit cost for purchased power contained in the Company's initial application was .403201¢/KWH based on the test-period operating experience. Subsequent to that filing, Nantahala's accounting procedures were modified to include as a purchased power expense certain facilities rental charges which had been previously recorded in a transmission expense account. The Commission concludes that the proposed purchased power adjustment clause with a base cost level of 0.409234¢/KWH is a just and reasonable rate and an appropriate method by which Nantahala can recover a part of its reasonable operating expenses and, at the same time, avoid the result of having the Company recover this cost both as a transmission expense item and a purchased power cost item.

The Commission also concludes that the purchased power cost adjustment clause should be closely monitored to ensure the accuracy and efficiency of the cost pass-through procedure. In this regard, Nantahala should be required to submit monthly reports to the Commission including data on TVA's rates, amounts of purchased power, purchased power expenses, revenues recovered pursuant to the purchased power cost adjustment clause, and the computation of the purchased power adjustment factor for each billing month.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

Staff witness Bumgarner testified as to the service conditions on Nantahala's system. He testified that of 11 locations where service voltage was monitored, seven of these were found to be outside the Commission's prescribed tolerances of 114-126 volts. Mr. Jontz testified under cross-examination that he was now aware of these conditions and that steps were being taken to assure that these voltages would remain within the Commission's prescribed tolerances. He further pointed out that the locations chosen for monitoring represented the most adverse conditions and that the measurements were made during severely cold weather. Mr. Bumgarner stated during cross-examination that these conditions were selected not to be representative but to indicate whether voltage problems existed on the system. He further stated on redirect examination that he believed that customers on the ends of

distribution lines deserved the same quality of service as customers at the beginning of the lines, and that the methods used in his tests were consistent with his usual procedures.

Public witnesses, testifying in the public hearing in Bryson City, appeared to be generally satisfied with the electric service although scattered complaints were voiced which the Company agreed to investigate further.

In light of the above evidence, the Commission concludes that the service provided by Nantahala is generally adequate and reliable but that the Company should take steps to ensure that all residential service voltages remain within 114-126 volts.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Staff witness Bumgarner testified that Nantahala should undertake load surveys of its own for the purpose of developing demand cost allocation factors instead of using those developed by Carolina Power and Light Company. He stated that climatic and customer mix differences between the two companies should result in different usage characteristics.

The Commission was persuaded by the testimony of witness Bumgarner and thus concludes that Nantahala should take steps to develop its own load surveys which will more accurately reflect the cost associated with its own system. Such a plan should be presented to the Commission Staff within 90 days of the date of this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Nantahala currently provides electric service to its North Carolina retail customers under five rate schedules: Schedule R, Residential Service; Schedule SG, Small General Service; Schedule LG, Large General Service; Schedule YL, Yard Lighting Service; and Schedule SL, Street Lighting Service. In this docket, the Company proposed to maintain these five rate schedules; however, several slight changes in rate design were requested.

In its proposed rates, Nantahala did not apply a uniform increase to each rate schedule. The Company witness testified that varying the levels of revenue increase between rate schedules had the effect of more nearly equalizing the rates of return among those rate classes. Thus, the Company's witness indicated that under the proposed rates, customers would pay closer to their actual cost of service than under the present rates.

Other rate design changes proposed by Nantahala included minor modifications in the blocking of the residential schedule and the elimination of the incandescent lighting option of the street lighting schedule. Also, the Company

proposed slight alterations in the wording of several of the terms and conditions of service in each of the rate schedules. Finally, the pricing of the schedules were changed to reflect the level of revenues being requested in this docket.

In addition to the rate design testimony presented by the Company, evidence was offered by the Commission Staff. The Staff's testimony includes an additional adjustment in the allocation of the proposed revenue increase among rate schedules to affect a further reduction in the variation in rates of return between rate classes from that proposed by the Company. The Staff also proposed several minor changes in the terms and conditions as proposed by the Company. Finally, the Staff proposed changes in the design of the residential and small general service rate schedules. The Staff recommended that the residential rate be designed to include a separated charge reflecting the fixed customer component of cost and a reduction in the number of energy blocks in the rate for simplification purposes. The Staff's witness testified that the customer component of cost is incurred even though no energy is consumed, and, thus, it is more appropriate to recover this cost through a separated charge. The Staff proposed a charge of $5 per month for all residential customers. The Staff made similar proposals for the small general service schedule. In that schedule the Staff recommended a customer charge of $5 per month for single-phase service and $8 per month for three-phase service.

After review of the rate design testimony, the Commission is of the opinion that the adjustments made by the Staff to Nantahala's proposed rates for the purpose of reducing the variations in rates of return are appropriate. Further, the Commission concludes that a separately stated "Basic Customer Charge" would more closely reflect cost occurrence and should be incorporated in the design of the residential and small general service rate schedules. However, the Staff's proposed charge of $5 per month for residential customers would become the minimum monthly bill and would represent a large increase from current levels. This could have a significant impact on low income customers. For this reason, the Commission concludes that the residential rate should be designed to include a Basic Customer Charge of $2 per month for two-wire service and $4 per month for three-wire service. The Basic Customer Charge for the small general service schedule should be $4 per month for single-phase service and $8 per month for three-phase service. The Commission approves of the Staff's recommended changes to the terms and conditions proposed by the Company.

Shown in Appendix I attached hereto is a list of rate schedules designed to generate the level of total revenues approved by the Commission in this Order and to incorporate all of the changes in rate design that the Commission has concluded appropriate. The Commission is of the opinion

that the rate schedules in Appendix 1 represent just and reasonable rates for Nantahala Power and Light Company.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17-20

The Intervenors in this docket, including the Attorney General, raise questions which deal generally with the relationship between Nantahala and Alcoa and the relationship between Nantahala and Tapoco, which, like Nantahala, is a wholly-owned subsidiary of Alcoa. The Intervenors contend that Tapoco enjoys the status of a public utility and that, because of that public utility status, the output of the generating facilities owned by Tapoco should be available to serve the using and consuming public in North Carolina. In fact, there is a motion now pending before the Commission, which motion was made by counsel for Intervenor Truett at the last day of hearings. In that motion, Intervenor Truett asks that the Commission require that Nantahala provide information and data to show what a rolled-in cost of service would be if Nantahala and Tapoco are treated as one utility and requests that reasonable rates be set based on this combined cost of service.

The Intervenors also attack the reasonableness of the New Fontana Agreement, a contractual arrangement between TVA, Alcoa, Nantahala and Tapoco, which provides, among other things, for the coordinated operation of the power production and transmission facilities owned by TVA, Nantahala and Tapoco. The Intervenors contend that Nantahala gives up more than it receives under the Agreement and that Nantahala should be getting more than its presently apportioned share of the New Fontana Agreement entitlements.

The discussion of these issues is contained, for the most part, in the rebuttal testimony of Applicant witness Popovich and in the surrebuttal testimony of Intervenor witness Simon.

In his rebuttal testimony, witness Popovich outlined his understanding of the New Fontana Agreement including the control and operation of eight Nantahala hydroelectric facilities and four Tapoco hydroelectric facilities by TVA. Witness Popovich also discussed the interest of TVA in operating the hydroelectric facilities for flood control and navigation as well as for generating electricity. From his review of the New Fontana Agreement, witness Popovich expressed the opinion that the Agreement was an improvement over the situation that existed prior to the Agreement's execution.

Witness Popovich explained the studies he has conducted of the storage capacity of the Fontana Dam and how that storage capacity affects the storage contributions which the Nantahala upstream storage facilities have on the downstream hydroelectric plants of Tapoco. His testimony also included the procedures used in his study regarding the apportionment

of entitlements between Nantahala and Tapoco under the Apportionment Agreement, including a discussion of the capacity entitlement, the energy entitlement and the peaking deviation entitlement.

Witness Simon testified in surrebuttal on behalf of the Attorney General and Intervenors Bryson City, Swain County, and Henry Truett. Witness Simon testified concerning the methods by which Nantahala is compensated for its contribution of resources in the New Fontana Agreement and the apportionment of capacity and energy between Nantahala and Tapoco under that Agreement and the resultant Apportionment Agreement. He indicated that while he has made no study of his own he believes the cost of service of Nantahala and Tapoco should be rolled-in because of various reasons cited in his testimony. In general, witness Simon comments on the rebuttal testimony of witness Popovich and disagrees with, among other things, witness Popovich's evaluation of Nantahala's primary generating capacity contribution, witness Popovich's conclusion that a public utility cannot utilize secondary energy, Mr. Popovich's use of median energy available over average energy available in determining energy availability, and Mr. Popovich's belief that Tapoco receives no downstream benefits from the upstream storage facilities owned by Nantahala.

Based on the testimony of witnesses Popovich and Simon, the testimony of other witnesses relating to these same matters and the numerous documents introduced into evidence, the Commission is of the opinion, and thus concludes, that the evidence in this proceeding is not sufficient to require the facilities of Tapoco and Nantahala to be combined or to warrant this Commission to require Nantahala to provide information and data showing what a rolled-in cost of service would be by treating Tapoco and Nantahala as a single company. Accordingly, the Commission concludes that the motion by the Intervenors that such a requirement be placed on Nantahala should be denied.

Further, the Commission has reviewed the testimony and documents relating to the New Fontana Agreement and the Apportionment Agreement and concludes that such evidence clearly demonstrates that those agreements are as fair or fairer than any agreement Nantahala could have negotiated on its own and that the New Fontana Agreement and the resultant Apportionment Agreement are just and reasonable.

The crucial question concerning the relationship between Nantahala and Tapoco is whether the corporations are so closely related as to justify this Commission to pierce the corporate veil and hold the corporations to be one. The Intervenors reason that, since Alcoa is the parent corporation of both Nantahala and Tapoco, it is using these two subsidiary corporations for its own benefit to the detriment of the subsidiaries and the using and consuming public. While Alcoa does in fact own both Tapoco and Nantahala, this fact alone, and the other evidence in the

docket, fails to show that Alcoa has misused that position. In fact, the evidence reveals that Nantahala has provided the residents of Western North Carolina for many years with reliable electricity at a reasonable cost.

Witness Simon concludes in his testimony that Alcoa, Nantahala, and Tapoco are in reality one corporation, at least insofar as electric power supply matters are concerned. He reaches this conclusion based on the fact that all three corporations are signatories to certain agreements, that the generating facilities of Tapoco and Nantahala are closely integrated, and that each corporation can use the transmission facilities of the other. Even if all these factors are accepted as true, they simply are not sufficient to justify this Commission in disregarding the separate corporate identities of the subject corporations.

The instant docket arose from an Application filed by Nantahala on November 3, 1976. That Application was filed in accordance with the laws of North Carolina and the Rules of this Commission. With the exception of the Attorney General, no party petitioned to intervene in this proceeding prior to the call of the case for hearing on March 15, 1977. Neither Alcoa nor Tapoco were parties to this proceeding. While it is true that Intervenor Truett asked that Tapoco and Alcoa be made parties respondent in this proceeding, that motion was not made until March 30, 1977, almost five months after the filing of the Application and well into the evidentiary phase of the hearing. The Commission denied the request at the time it was made and does not believe the evidence adduced after the request was made warrants a reversal of that ruling now.

The Commission is aware that the question of whether Tapoco is a public utility was raised in this proceeding. However, the Commission again notes that Tapoco is not and never has been a party to this proceeding. Further, the Commission has concluded that the evidence in this case fails to support the contention of the various Intervenors that Tapoco (and Alcoa) and Nantahala are, in fact, one corporation. Accordingly, the Commission does not believe that it is necessary or even proper to consider the question of whether Tapoco is a public utility in conjunction with a general rate case of Nantahala.

The reasonableness of the New Fontana Agreement and the resultant Apportionment Agreement has been considered by this Commission on previous occasions. A review of those agreements and the testimony and documents related to those agreements in this proceeding lead this Commission to the inescapable conclusion that the agreements are just and reasonable and result in benefits for the customers of Nantahala.

The New Fontana Agreement was executed to provide TVA with peaking power and additional energy and to "firm-up" power available to Nantahala and Tapoco. This benefits Nantahala

in that Nantahala's generating capacity is all hydroelectric and "firming-up" is needed to make Nantahala's available energy less dependent on stream flow conditions.

If Nantahala were operating outside the New Fontana Agreement, it would have assured capacity of 42.6 MW. Based on witness Popovich's testimony, which the Commission accepts, the assured capacity available to Nantahala under the Agreement is more than the assured capacity available absent the Agreement. Additionally, Nantahala also receives an associated energy entitlement of 41.1 average MW, the average amount of energy (Primary and primary equivalent of secondary) it would produce on its own under average rainfall conditions. Nantahala's entitlement also includes a capacity allowance for "peaking deviation" given to TVA by Nantahala.

While the New Fontana Agreement makes electric power available jointly to Nantahala and Tapoco, it does not specify what each of them is entitled to receive. Prior to June 1, 1971, Nantahala took the energy and capacity it needed to meet its public utility load with the excess going to Alcoa. As Nantahala's load grew, this excess became virtually nonexistent and it was necessary to apportion the entitlements under the New Fontana Agreement. Consequently, the Apportionment Agreement was entered on June 1, 1971, to apportion the power and energy available to Nantahala and to apportion the obligations of Nantahala and Tapoco thereunder.

Under this Agreement, Nantahala receives up to 41.1 MW of primary power and the associated energy; in addition, Nantahala receives up to 13.2 MW of peaking power, 6.6 MW of which constitutes peaking power to which Tapoco would be "entitled" except for this Agreement of the parties which states that Nantahala shall be entitled to this power in lieu of 1,522.5 MWH of deviation energy. Deviation energy is energy granted in return for the value of energy storage capabilities of certain hydroelectric facilities. Tapoco receives all power and energy available under the New Fontana Agreement that remain after Nantahala takes its "entitlements."

The logic behind the Apportionment Agreement is sound in that benefits are allocated based on each company's contribution and with the provision that Nantahala does no worse than it would operating by itself. The Agreement apportions 47.7 MW of assured capacity to Nantahala, plus 6.6 MW of peaking deviation from Tapoco, in return for Nantahala's share of peaking deviation energy. Tapoco receives 19.6 MW of assured capacity, 75.0 MW of interruptible capacity, and 90.0 MW of curtailable capacity.

Nantahala contributes 41.1 Avg. MW of primary energy (adjusted), primary energy being defined as hydroelectric energy which is available from continuous power. Tapoco contributes 86.1 Avg. MW of primary energy (adjusted) and

82.8 Avg. MW of secondary energy (intermediate grade - adjusted), secondary energy being defined as all hydroelectric energy other than primary energy, frequently limited to that portion of secondary energy available over a specified percentage of time. The Apportionment Agreement by the Company entitles Nantahala to 41.1 Avg. MW of primary energy and no secondary energy, secondary energy not being considered suitable for public utility load because of its inconsistent availability. Tapoco receives 81.2 Avg. MW of high grade secondary energy (energy associated with interruptible capacity), 82.8 Avg. MW of intermediate grade secondary energy (energy associated with curtailable capacity), and no primary energy.

The Commission is of the opinion, and thus concludes, that the Apportionment Agreement was done in a just and reasonable manner using sound engineering concepts, including the use of the "largest unit out" method of deriving the assured capacity contribution of Nantahala. Previous Commission Staff studies have indicated that the construction of additional generating capacity by Nantahala to augment its existing resources is economically unfeasible and would result in increased cost to the consumer. There is nothing in the record of this case which would support a different conclusion. Likewise, it does not appear that Nantahala could obtain a better arrangement in purchasing additional power from other utilities, in obtaining power from Tapoco since Tapoco power is not suited for a public utility load, or in negotiating individually with TVA. In short, the Commission concludes that the New Fontana Agreement and the resultant Apportionment Agreement are just and reasonable and benefits Nantahala and its customers.

IT IS, THEREFORE, ORDERED as follows:

1. That Nantahala be, and is hereby, authorized to increase its North Carolina rates and charges to produce additional annual gross revenues not to exceed $1,598,918.

2. That the rate schedules attached hereto as Appendix 1 be, and the same is hereby, approved, effective on service to be rendered on and after the date of this Order.

3. That the purchased power cost adjustment clause attached hereto as Appendix 2 is hereby approved.

4. That Nantahala shall file monthly with the Commission sufficient information as to enable the Commission to determine that the purchased power cost adjustment clause is being properly used.

5. That Nantahala shall initiate plans to conduct its own cost of service study and shall file such plans with the Commission within 90 days from the date of this Order.

6. That the motion by Intervenors to require Nantahala to provide information and data showing what a rolled-in

cost of service would be if Nantahala and Tapoco were combined and to establish rates on such basis be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of June, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Clive, Deputy Clerk

Note: For Appendices 1 and 2, see official Order in the Office of the Chief Clerk.

DOCKET NO. E-22, SUB 203

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Virginia Electric and) ORDER GRANTING
Power Company for Authority to Adjust) PARTIAL INCREASE
and Increase Rates and Charges) IN RATES

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 10, 11, 12 and 13, 1977

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

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and Edward S. Finley, Jr., Joyner and Howison, Attorneys at Law, 906 Wachovia Bank Building, Raleigh, North Carolina

Guy T. Tripp III, Hunton and Williams, Attorneys at Law, P. O. Box 1535, Richmond, Virginia 23212

For the Intervenors:

Robert P. Gruber, Special Deputy Attorney General, P. O. Box 629, Raleigh, North Carolina
For: The Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, and Jane S. Atkins, Associate Commission Attorney, Ruffin Building, One West Morgan Street, Raleigh, North Carolina

BY THE COMMISSION: On December 30, 1976, Virginia Electric and Power Company (hereinafter Vepco, the Company or Applicant) filed an application with the Commission for authority to increase its rates and charges in its service area to its retail customers. Vepco proposed to make the rates effective on or after February 1, 1977. In its application Vepco proposed an additional annual increase in gross revenues of approximately $6,600,000 or 12.7% based upon the 12-month period ending June 30, 1976.

By Order issued January 12, 1977, the Commission declared the application to be a general rate case under G. S. 62-137 and suspended the effectiveness of the proposed rates for a period of 270 days from the proposed effective date and set the matter for investigation and hearing. The Order of the Commission further established the test period to be used by all parties in this proceeding as the 12-month period ending June 30, 1976. In its Order the Commission required Vepco at its expense to publish Notice of Hearing attached to the Order. The hearing was scheduled to begin May 3, 1977.

On January 17, 1977, Vepco through its counsel filed a Motion requesting a delay in the hearing date scheduled by the above referenced Commission Order. By Order of January 18, 1977, the Motion was allowed and the hearing was rescheduled to begin May 10, 1977, with Vepco having the responsibility of making the appropriate changes in the Notice of Hearing.

Notice of Intervention was filed by the Attorney General of North Carolina on March 18, 1977, and recognized by Order of the Commission of March 21, 1977.

On April 27, 1977, Vepco filed a document headed "Summary - Net Electric Operating Income and Rate Base for the 12-month period ending December 31, 1976" accompanied by a detailed cost of service study.

On May 2, 1977, Vepco filed additional exhibits of O. James Peterson III, B. D. Johnson, Henry H. Dunston, Jr., Howard M. Wilson, Jr., and John Russell. The exhibits contained accounting, allocations and other data for calendar year 1976. In its application Vepco had on December 30, 1976, filed certain estimated data for calendar year 1976.

On May 6, 1977, supplemental testimony and revised exhibits of W. L. Proffitt were filed by Vepco.

The public hearing in this proceeding began on May 10, 1977.

The Attorney General presented public witnesses Betty L. Kirkland and Walter Sawyer who presented testimony in opposition to the proposed rate increases.

At the hearing Vepco presented the testimony of the following witnesses: T. Justin Moore, Jr., President of Vepco who testified as to rate of return, construction program and updated data; W. L. Proffitt, Senior Vice President of Vepco who testified as to construction program, power reliability, forecasts and reserve margin; O. James Peterson III, Treasurer of Vepco, who testified as to financing, capital structure, coverage of fixed charges and cost of capital; B. D. Johnson, Executive Manager - Accounting and Control of Vepco, testified as to accounting, revenue and expense adjustments; Joseph F. Brennan, President of Associated Utility Services, Inc., testified as to rate of return and cost of capital; John D. Russell, Executive Vice President of Associated Utility Services, Inc., who testified as to replacement cost and fair value; Henry H. Dunston, Jr., Director - Cost Analysis in the Rate Department of Vepco, who testified as to cost of service studies and jurisdictional allocation; and Howard M. Wilson, Jr., Director - Rates of Vepco, who testified as to rate design.

The Staff presented the testimony of Andrew W. Williams, Chief of the Electric Section, who testified as to fuel cost, fuel cost in base rate and adjustment formula and fuel procurement; J. Reed Bumgarner, Distribution Engineer, who testified as to jurisdictional allocation, growth factor including expenses, revenues, kilowatt-hours and median hydro adjustment; N. Edward Tucker, Electric Engineer, who testified as to cost of service and rate design (industrial); Dennis Nightingale, Electric Engineer, who testified as to adequacy of generation facilities (effect of recent forecast); William W. Winters, Staff Accountant, testified as to acccunting issues; Eugene H. Curtis, Jr., Operations Engineer, testified as to replacement cost, fair value and depreciation; Edwin A. Rosenberg, Economist, testified as to rate of return and cost of capital; and Dr. Dennis W. Goins, Economist, testified as to rate design (residential). The Staff presented the additional testimony of Andrew W. Williams and William W. Winters in the nature of rebuttal.

At the conclusion of the hearing the parties presented oral argument to the Commission with respect to the issues involved in the case.

Based upon the foregoing, the verified application, the testimony and exhibits received in evidence at the hearing, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That Virginia Electric and Power Company is duly organized as a public utility company under the laws of North Carolina, subject to the jurisdiction of this Commission, and is holding a franchise to furnish electric power in the northeastern portion of the State of North

Carolina under rates and service regulated by the Utilities Commission as provided in Chapter 62 of the General Statutes.

2. That the test period for the purposes of this proceeding is the 12-month period ended June 30, 1976. Vepco is seeking an increase in its rates and charges to North Carolina retail customers of approximately $6.6 million based upon operations in said test year.

3. That the allocation factors derived from Vepco's actual operations for the 12-month period ended June 30, 1976, are the proper factors for determining the portion of revenues, expenses, and rate-base items attributable to the Company's North Carolina retail business.

4. That the reasonable original cost of Vepco's property used and useful in providing intrastate electric service to its retail customers in North Carolina is $148,083,000. The reasonable accumulated provision for depreciation and amortization is $33,567,000, and the reasonable original cost less depreciation and amortization is $114,516,000.

5. That the reasonable allowance for working capital is $8,347,000.

6. That the reasonable replacement cost less depreciation of Vepco's plant used and useful in providing retail electric service in North Carolina is $204,620,093.

7. That the fair value of Vepco's plant used and useful in providing retail electric service in North Carolina should be derived by giving a 3/4 weighting to the reasonable original cost less depreciation of Vepco's plant in service, and a 1/4 weighting to the depreciated replacement cost of Vepco's utility plant. By this method, using the depreciated original cost of $114,516,000 and the depreciated replacement cost of $204,620,093, the Commission finds that the fair value of Vepco's utility plant devoted to retail electric service in North Carolina is $137,042,023. This fair value includes a reasonable fair value increment of $22,526,023.

8. That the fair value of Vepco's plant in service to its customers within the State of North Carolina of $137,042,023 plus the reasonable allowance for working capital of $8,347,000 yields a reasonable fair value of Vepco's property in service to North Carolina customers of $145,389,023.

9. That Vepco's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $55,675,000 under the present rates and, after giving effect to the Company's proposed rates, are $61,925,000.

10. That the level of test year operating revenue deductions after accounting and pro forma adjustments,

including taxes and interest on customer deposits, is $45,602,000, which includes an amount of $4,600,000 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end levels.

11. That the fair rate of return that Vepco should have the opportunity to earn on the fair value of its North Carolina investment for retail operations is 8.10%, which requires additional annual revenues from North Carolina retail customers of $3,709,000 based upon the historical test year (12 months ended June 30, 1976) level of operations as adjusted for known changes subsequent thereto. This rate of return on the fair value of Vepco's property yields a fair rate of return on the fair value equity of Vepco of approximately 8.69%. The full amount of additional revenues requested by Vepco in this proceeding would produce rates of return in excess of those hereinabove approved and, hence, are unjust and unreasonable.

12. That Vepco's fuel procurement activities and practices are reasonable and are in accordance with similar practices previously reviewed by this Commission.

13. That the proper base fuel cost level to be incorporated into the basic rate design and the recommended fuel cost adjustment formula (G.S. 62-134(e)), based on the test year cost levels, which is appropriate for use in this proceeding, is 1.290¢/KWH.

14. That the overall quality of electric service provided by Vepco to its North Carolina retail customers is adequate.

15. That Vepco's practice of recording the excess of market value over original cost of uranium and plutonium in spent nuclear fuel as prescribed by the State Corporation Commission of the Commonwealth of Virginia does not conform to this Commission's requirement that assets be recorded at their original cost.

16. That the residential rate design proposed by Vepco shall be modified as set forth in the Commission's evidence and conclusions for this Finding of Fact and the same is found to be just and reasonable.

17. That the rate structure proposed by Vepco for each rate classification will produce relative levels of return which greatly reduce the existing variations in rates of return between rate classes and, thus, is not unreasonably discriminating as between classes of service.

18. That the general structure of the general service, lighting and governmental service rate schedules proposed by Vepco is appropriate with one exception: the Company's proposed billing demand ratchet in its Large General Service Schedule (Schedule No. 6) should be changed to include the provision that the minimum billing demand will not be less

than 50% of the maximum demand occurring during the months of October through May of the preceding 11 months.

19. That the pricing of Vepco's proposed rates should be adjusted to reduce the seasonal differential and to reflect the lesser amount of general revenue increase approved herein. The rates incorporating these changes are those contained in the attached Appendix A.

20. That the changes in Service Rules and Regulations, Terms and Conditions of Service, and other provisions of service proposed by the Company should be implemented as filed except that the Facilities Charges should be recomputed to reflect the level of overall return approved herein.

Based upon the above Findings of Fact the Commission reaches the following conclusions.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The evidence for Finding of Fact No. 1 is contained in the verified application and the record as a whole. This finding is essentially procedural and jurisdictional in nature.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

The test period to be used by the parties to this case was established by the Commission's Order of January 12, 1977, as the 12-month period ending June 30, 1976. Vepco had originally filed data in accordance with the test year. At the time of the application, Vepco also filed estimated data for calendar year 1976. On April 27, 1977, a short time prior to the commencement of the hearing, Vepco filed revised data for calendar year 1976. On May 2, 1977, Vepco filed revised exhibits of witnesses Peterson, Johnson, Dunston, Wilson, and Russell. The latter filing was a follow-up for Vepco's update of calendar year 1976 data.

While no objections were made to this introduction of the revised calendar year 1976 data, the Commission nevertheless is charged with the responsibility of weighing the credibility of that data as it relates to the established test period and in setting rates in this case.

G.S. 62-133(c) provides in part 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 costs, 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."

The latter portion was modified in 1975 by the General Assembly.

Several of the Staff witnesses and, in particular, Mr. Winters, the Accounting witness, updated all exhibits for known changes which were verified by the respective Staff members in the course of their investigation.

Many of the revised calendar year 1976 figures proposed by Vepco in its late filings are unaudited and unverified. The Commission is of the opinion that this circumstance as it relates to the various accounting adjustments must be considered in weighing the credibility of the evidence presented by Vepco. Such consideration has been given by the Commission. Known changes clearly established prior to the close of the hearing have been considered and used for the purpose of setting rates in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

In his original filing of direct testimony and exhibits, Vepco witness Dunston introduced into evidence a jurisdictional allocation study based on the Company's operations during the test period determined by this Commission, the 12-month period ended June 30, 1976. Subsequently, witness Dunston introduced into evidence an additional exhibit consisting of a jurisdictional allocation study based on the calendar year 1976 operations of Vepco.

Under cross-examination regarding this additional exhibit, Commission Staff witness Bumgarner testified that it would be improper to use the demand allocation factors from the calendar year jurisdictional allocation study applied to the demand-related revenue, expense, and rate base items of the test-period allocation study. Witness Bumgarner testified that these allocation factors have not been audited by the Commission's accounting or engineering staffs and that in any event the allocation factors could only be properly applied to the financial and operating data from the matching 12-month period. Mr. Bumgarner reiterated that the June 30, 1976, jurisdictional allocation study should be given the most weight since that was the test period designated by the Commission in this docket.

In consideration of the above evidence, the Commission concludes that the test-period jurisdictional allocation study, as adjusted, should be used to determine the portion of Vepco's revenue, expenses, and rate base attributable to the Company's North Carolina retail business.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The Commission will now analyze the testimony and exhibits presented by Company witness Johnson and Staff witness

Winters concerning the original cost investment in net electric plant in service. The following chart summarizes the amount which each of these witnesses contends is proper:

000's Omitted

Item (a)	Company Witness Johnson (b)	Staff Witness Winters (c)
Electric plant in service	$150,304	$148,099
Less: Accumulated depreciation	31,240	35,552
Amortization of nuclear fuel assemblies	220	403
Net electric plant in service	$118,844	$112,144

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. Both witnesses, as the starting point, used the electric plant in service per books in the amount of $144,077,000 at June 30, 1976; however, the witnesses disagree as to the adjustments which should be made to the book amount. Company witness Johnson increased the book amount by $6,243,000 to include environmental control facilities currently included in construction work in progress. These installations will not be placed in service before August 1977. Witness Johnson also decreased the book amount by $16,000 to exclude a hydroelectric project to be retired upon receipt of approval from the Federal Power Commission. Staff witness Winters increased the book amount by $4,022,000 to include the additions to plant in service which occurred from July 1, 1976, through December 31, 1976.

In arriving at the appropriate level of investment in electric plant in service, the Commission will now discuss the adjustments proposed by the witnesses. Environmental control facilities classified as construction work in progress and the hydroelectric project awaiting retirement are not used and useful in providing electric service to the customers of North Carolina under the provisions of G. S. 62-133. The adjustment to increase plant in service for additions made from July 1, 1976, through December 31, 1976, complies with the statutory requirement that the Commission consider known changes which occurred up through the close of the hearing. In arriving at the appropriate investment in electric plant in service of $148,083,000, the Commission has used the book amount at June 30, 1976, of $144,077,000

plus the plant additions of $4,022,000 and then subtracted $16,000 for the hydroelectric plant awaiting retirement.

The second area of disagreement is the amount includable as accumulated depreciation. Company witness Johnson used the June 30, 1976, balance annualized to year-end. Staff witness Winters used the December 31, 1976, balance annualized to year-end.

The accumulated depreciation to be used in setting rates in this proceeding is the December 31, 1976, level annualized to year-end. This level properly matches the accumulated depreciation with the level of investment in electric plant in service found to be appropriate, as previously discussed. The Commission finds, however, that the appropriate factors to be used to allocate total system accumulated depreciation to the North Carolina retail operations are those approved and discussed under Evidence and Conclusions for Finding of Fact No. 3. By applying these factors to the total system accumulated depreciation annualized at December 31, 1976, the Commission arrives at an accumulated depreciation balance of $33,105,000. From this amount $14,000 must be subtracted for depreciation on the hydroelectric project awaiting retirement, as previously discussed. The Commission concludes that the appropriate level of accumulated depreciation for setting rates in this proceeding is $33,091,000.

The final area of disagreement is the amount includable as amortization of nuclear fuel assemblies. Company witness Johnson used the June 30, 1976, balance while Staff witness Winters used the December 31, 1976, balance.

The amortization of nuclear fuel assemblies to be used in setting rates in this proceeding is the December 31, 1976, level. This level is consistent with the adoption of December 31, 1976, levels of investment in electric plant in service and accumulated depreciation. The Commission finds, however, that the appropriate allocation factor to be used to allocate amortization of nuclear fuel assemblies to the North Carolina retail operations is the energy at production level factor (.050929). By applying this factor to the total system amount at December 31, 1976, of $9,347,259, the Commission arrives at an amortization of nuclear fuel assemblies in the amount of $476,000, rounded to the nearest thousand dollars.

The Commission concludes that the following calculation of net electric plant in service is appropriate for setting rates in this case:

Item (a)	Amount (b)
Original cost of plant in service at 6-30-76	$144,077,000
Additions to plant in service (6-1-76 through 12-31-76)	4,022,000
Retirement of hydroelectric project	(16,000)
Total	$148,083,000
Less: Accumulated depreciation	(33,091,000)
Amortization of nuclear fuel assemblies	(476,000)
Net electric plant in service	$114,516,000

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Commission will now analyze the testimony and exhibits of Company witness Johnson and Staff witness Winters considering the amount each witness considers properly includable in the original cost net investment as an allowance for working capital. The following chart summarizes the amount which each of these witnesses contends is proper:

000's Omitted

Item (a)	Company Witness Johnson (b)	Staff Witness Winters (c)
Allowance for working capital		
Materials and supplies	$4,536	$4,686
Investment in leased nuclear fuel	18	15
Cash	4,146	4,066
Minimum bank balances	-	760
Prepayments	-	110
Deferred fuel expense less Federal income tax deferral	142	-
Average tax accruals	(934)	(866)
Customer deposits	-	(310)
Customer advances for construction	-	(130)
Total	$7,908	$8,331

As shown in the above chart, each witness used the formula method in developing the allowance for working capital. However, the witnesses did not use the same point in time nor did they use the same items in calculating the allowance.

Company witness Johnson determined his working capital allowance based on June 30, 1976, figures while Staff witness Winters determined his allowance based on December 31, 1976, figures. The differences between the amounts used by the witnesses for materials and supplies, investment in leased nuclear fuel, deferred fuel expense less Federal income tax deferral, and average tax accruals result wholly from the use of the different time periods. The difference between the amounts shown for cash results from the witnesses' having arrived at different test year levels of operations and maintenance expense less purchased power, the basis on which a 45 days' cash allowance is determined. The remaining differences result from Staff witness Winters' including minimum bank balances, prepayments, customer deposits, and customer advances in his calculation of working capital and Company witness Johnson's omitting these items in his calculation.

The Commission finds that using the December 31, 1976, figures for the calculation of working capital allowance is consistent with the statutory requirement that the Commission consider known changes which have occurred through the close of the hearing. The Commission also finds that the minimum bank balances, prepayments, customer deposits, and customer advances proposed by Staff witness Winters are properly includable in the allowance for working capital in this case. The Commission finds the allowance for cash to be $4,082,000 based on the approved maintenance and operating expenses arrived at and discussed in Evidence and Conclusions for Finding of Fact No. 10.

Based on the findings discussed in the above paragraph, the Commission arrives at a reasonable working capital allowance of $8,347,000.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6, 7, AND 8

The term "replacement cost" envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in utility plant. Company witness Russell, a consultant to Virginia Electric and Power Company, testified with respect to his determination of the net trended original cost valuation of Vepco's properties used and useful in providing retail electric service to North Carolina as of June 30, 1976. Witness Russell calculated his net trended original cost by computing a reproduction cost new from the surviving original cost dollars, a replacement cost which corrects plant in service for economies of scale, and a condition percent based on a 9% present worth analysis as well as a physical inspection of plant in service for calculating accrued depreciation.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the reproduction cost new and replacement cost as calculated by Company witness

Russell. Accrued depreciation to be deducted from the replacement cost was calculated using different methodologies by Staff witness Curtis and Company witness Russell. Staff witness Curtis calculated a condition percent based on the book reserve for calculating accrued depreciation while Company witness Russell utilized a 9% present worth analysis for the majority of the accounts. The Commission concurs that a condition percent based on the book reserve is appropriate in that Company witness Russell's 9% condition percent methodology understates the depreciation and overstates the condition percent.

The Commission concludes that the reasonable replacement cost less depreciation of Vepco's retail electric utility plant in service is $204,620,093.

Having determined the appropriate original cost less depreciation to be $114,516,000 and the reasonable estimate of net replacement cost of that plant to be $204,620,093, the Commission must determine the fair value of Vepco's net plant in service.

The Commission concludes that a 75% weighting for net original cost and a 25% weighting for net replacement cost are appropriate for determination of fair value under all the circumstances in this case. By weighting the net original cost of $114,516,000 by a 75% factor and the net replacement cost by a 25% factor, the fair value of Vepco's utility plant in North Carolina is $137,042,023.

The fair value of Vepco's plant in service to its customers in North Carolina of $137,042,023 plus the reasonable allowance for working capital of $8,347,000 yields a reasonable value of Vepco's property in service to North Carolina customers of $145,389,023.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Johnson and Staff witness Winters proposed the following amounts for operating revenues:

Item (a)	Company Witness Johnson (b)	Staff Witness Winters (c)
Operating revenues	$55,344,000	$55,675,000

Company witness Johnson adjusted book revenues of $55,538,000 by $1,806,000 to normalize and annualize the revenues for the test year ended June 30, 1976. Staff witness Winters accepted these adjustments and made one further adjustment of $331,000 based on the recommendations of Staff witness Bumgarner. Witness Bumgarner proposed this increase in operating revenues to reflect the increased number of customers and the decreased amount of usage per

average customer which occurred between July 1, 1976, and December 31, 1976.

The Commission finds that the adjustment proposed by witness Bumgarner to reflect growth in customers and the decrease in average customer consumption which occurred from July 1, 1976, through December 31, 1976, complies with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing. The Commission, therefore, concludes that the reasonable level of operating revenues under present rates is $55,675,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witness Johnson and Staff witness Winters offered testimony and exhibits presenting the level of operating revenue deductions which they believe should be used for fixing the Applicant's rates in this proceeding.

The following chart sets forth the amounts presented by each witness:

Item (a)	Company Witness Johnson (b)	Staff Witness Winters (c)
Operations and maintenance expense	$33,115,000	$32,978,000
Depreciation	4,493,000	4,950,000
Taxes other than income	4,571,000	4,786,000
Income taxes		
State	44,000	335,000
Federal	2,956,000	2,882,000
Charitable and educational donations (net of income taxes)	8,000	8,000
Total revenue deductions	$45,187,000	$45,939,000

As shown in the above chart, the witnesses disagree as to the amount properly includable for operations and maintenance expense. This difference of $137,000 results from the following adjustments made by Staff witness Winters:

Item (a)	Amount (b)
1. Adjustment to eliminate amortization of the Marble Valley hydroelectric project abandoned in 1971	$ (13,000)
2. Adjustment to eliminate amortization of Hurricane Agnes' damages incurred in 1972	(51,000)
3. Adjustment to eliminate the amortization of coal transshipping cost incurred in 1974	(70,000)
4. Adjustment to increase research and development expense to the December 31, 1977, level	23,000
5. Adjustment to retirement plan expense to reflect the latest actuarial valuation	12,000
6. Adjustment to dental plan expense for new rates charged by the insurance company and for the inclusion of IBEW employees under the plan	5,000
7. Adjustment to eliminate expenses related to North Anna No. 1 environmental control facilities	(23,000)
8. Adjustment to reduce the amount of fringe benefits applicable to the Company's pro forma adjustment to increase wages and fringe benefits	(12,000)
9. Adjustment to reduce the amount of uncollectible accounts expense to the net amount charged off in North Carolina during the test year	(90,000)
10. Adjustment to include interest on customer deposits	17,000
11. Adjustment to increase expenses to reflect increased customers and decreased usage from July 1, 1976, through December 31, 1976	90,000
12. Adjustment to eliminate tree-trimming and bush-control expense which were deferred from prior periods	(25,000)
Total	$(137,000)

As shown above, Item No. 1 results from witness Winters' adjustment to eliminate amortization of the Marble Valley hydroelectric project abandoned in 1971. Witness Winters testified that the amortization period had expired and this

expense should not be included in the cost of service in setting rates in this proceeding.

The Commission finds that even if the amortization period has expired such abandonments are recurring and that $13,000 is a reasonable amount to include in the cost of service for this item.

Item No. 2 results from witness Winters' adjustment to eliminate the amortization of Hurricane Agnes' damages incurred in 1972. Witness Winters testified that the amortization period had expired and that this expense should not be included in the cost of service in these proceedings. The Commission finds that even if the amortization period has expired hurricane and other unforeseen damages are recurring and that $51,000 is a just and reasonable amount to include in the cost of service for this item.

Item No. 3 results from witness Winters' adjustment to eliminate the amortization of coal transshipping cost occurring in 1974. Witness Winters testified that the amortization period for this item had expired and that this item of expense was included in the cost of service when the present rates were set in the last general rate case, Docket No. E-22, Subs 161, 165 and 170. The Commission finds that the rates presently in effect were set with this item of expense included in its entirety in the cost of service. The Commission concludes that it would be improper to include a portion of this same expense in the cost of service in this proceeding.

Items Nos. 4, 5 and 6 result from witness Winters' adjustments to increase expenses for changes in conditions and circumstances which have occurred since the Company filed its application. The Commission finds that these adjustments comply with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing. The Commission, therefore, concludes that these items in the amount of $40,000 should be included in the cost of service in this proceeding.

Item No. 7 results from witness Winters' elimination of expenses related to the North Anna No. 1 environmental control facilities. Witness Winters testified that this expense is related to plant that is still under construction. The Commission found in Evidence and Conclusions for Finding of Fact No. 4 that the North Anna No. 1 environmental control facilities are not used and useful in providing electric service rendered to the public in North Carolina. The Commission concludes that it would be improper to include operation and maintenance expense related to these facilities in the cost of service in setting rates in this proceeding.

Item No. 8 results from witness Winters' adjustment to decrease the amount of fringe benefits applicable to the

Company's pro forma adjustment to increase wages. Witness Winters testified that his adjustment was necessary to eliminate fringe benefits included in the Company's wage adjustment which are not salary related. The Commission finds that pro forma adjustments to fringe benefits applicable to pro forma wage adjustments should be salary related and concludes that fringe benefits should be reduced $12,000.

Item No. 9 results from witness Winters' adjustment to reduce the amount of uncollectible accounts expense by $90,000 to the net amount charged off in North Carolina during the test year. The Company contends that the actual amount of charge-offs is unrepresentative of the level of uncollectibles for the future because of the Commission's decision to extend the cutoff period for electric customers which became effective January 1, 1975.

The Commission finds that the net amount of uncollectibles charged off during the test period as proposed by witness Winters is too low. The adjustment to uncollectibles should be calculated by annualizing the last two months of actual net charge-offs. This computation results in a $50,000 decrease to the level of uncollectibles proposed by the Company which the Commission concludes is appropriate.

Item No. 10 results from witness Winters' adjustment to include interest on customer deposits in the cost of service in this proceeding. The Commission, as discussed in Evidence and Conclusions for Finding of Fact No. 5, included customer deposits as a reduction in the calculation of the allowance for working capital. The Commission concludes that interest on customer deposits, therefore, should be included in the cost of service in the amount of $17,000.

Item No. 11 results from witness Winters' adjustment to increase operations and maintenance expense to reflect increased customers and decreased usage from July 1, 1976, through December 31, 1976, proposed by Staff witness Bumgarner. The Commission finds that the adjustment proposed by witness Bumgarner to reflect growth and coupled with the decrease in average customer consumption which occurred from July 1, 1976, through December 31, 1976, complies with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing. The Commission, therefore, concludes that operations and maintenance expense should be increased $90,000 for this item.

Item No. 12 reflects witness Winters' adjustment to eliminate tree-trimming and bush-control expenses which were deferred from prior periods and included in the test period. Company witness Johnson testified on rebuttal that even with the deferrals included in the test year, the level of tree-trimming and bush-control expense for the test year was representative. Witness Johnson testified that the level of expenses actually incurred for this item during the calendar

year 1976 exceeded the test year level. The Commission concludes that tree-trimming and bush-control expenses included by the Company are at a reasonable level and that witness Winters' adjustment to decrease this item is inappropriate.

The proper level of operations and maintenance expenses including annualization to year-end may be calculated as follows:

Item (a)	Amount (b)
Operating expense proposed by Company witness Johnson	$33,115,000
Adjustment to expense due to:	
The elimination of the amortization of coal transshipping cost	(70,000)
The increase for known changes in research and development costs	23,000
The elimination of expenses related to North Anna No. 1 environmental control facilities	(23,000)
The increase for known changes in retirement plan expense	12,000
The increase for known changes in dental plan expense	5,000
Elimination of fringe benefits applicable to pro forma wage increases not related to salary	(12,000)
Decrease in uncollectible accounts expense calculated by the Commission	(50,000)
Inclusion of interest on customer deposits in the cost of service	17,000
Increase for known changes in operations and maintenance expense related to growth in customers and decrease in usage	90,000
Total operations and maintenance expense	$33,107,000

The second area of disagreement is in the test year level of depreciation expense. Company witness Johnson included as a revenue deduction depreciation expense annualized to year-end, based on plant in service at June 30, 1976. Staff witness Winters included as a revenue deduction depreciation expense annualized to year-end based on plant in service at December 31, 1976, and allocated to the North Carolina

retail jurisdiction using allocation factors provided by the Company.

The depreciation expense to be used in setting rates in this proceeding is the December 31, 1976, level annualized to year-end. This level properly matches the depreciation expense with the level of investment in electric plant in service found to be fair as discussed in Evidence and Conclusions for Finding of Fact No. 4. The Commission finds, however, that the appropriate factors to be used to allocate total system depreciation to the North Carolina retail operation should be those approved and discussed under Evidence and Conclusions for Finding of Fact No. 3. By applying these factors to the total system depreciation annualized to year-end, based on plant in service at December 31, 1976, the Commission arrives at an annualized level of depreciation expense of $4,600,000.

The third area of difference in the test year level of operating revenue deductions concerns taxes other than income. Company witness Johnson testified that the appropriate level of taxes other than income was $4,571,000 while Staff witness Winters testified that the appropriate level was $4,786,000. This difference of $215,000 results from the following adjustments made by Staff witness Winters:

Item (a)	Amount (b)
Adjustment to gross receipts taxes to reflect the level applicable to test year revenues before adjustments	$ 47,000
Adjustment to gross receipts taxes for adjustment made to revenues and uncollectibles	25,000
Adjustment to annualize property tax expense on the December 31, 1976, level of plant in service	143,000
Total	$215,000

The first item shown above results from witness Winters' adjustment to increase gross receipts taxes in order to properly match the taxes with the revenues earned during the test period. The Commission concludes that gross receipts taxes should be increased $47,000 for this item.

The second item shown above results from witness Winters' adjustment to gross receipts taxes for adjustments he made to revenues and uncollectibles. The Commission did not accept witness Winters' adjustment to uncollectibles in its entirety; consequently, the gross receipts taxes should be calculated on the adjustments to revenues and uncollectibles

which it has approved. The Commission concludes that gross receipts taxes should be increased by $23,000 for this item.

The third item shown results from witness Winters' adjustment to annualize property tax on the December 31, 1976, level of plant in service. The level of property tax expense to be used in this proceeding is the December 31, 1976, level annualized to year-end. This level properly matches the property tax expense with the level of investment in electric plant in service found to be fair, as discussed in Evidence and Conclusions for Finding of Fact No. 3. The Commission concludes that property tax expense should be increased by $143,000.

The proper level of taxes other than income may be calculated as follows:

Item (a)	Amount (b)
Taxes other than income proposed by witness Johnson	$4,571,000
Adjustments to taxes other than income due to:	
The matching of gross receipts taxes to test year revenues before adjustments	47,000
Gross receipts taxes on adjustments to revenues and uncollectible accounts approved by the Commission	23,000
Annualization of property tax expense on the December 31, 1976, level of plant in service	143,000
Total	$4,784,000

The final areas of difference in the test year level of operating revenue deductions concerns State and Federal income taxes. Company witness Johnson testified that the appropriate level of State income taxes is $44,000 and the appropriate level of Federal income taxes is $2,956,000. Staff witness Winters testified that the appropriate level of State income taxes is $335,000 and the appropriate level of Federal income taxes is $2,882,000. These differences of $291,000 for State income taxes and ($74,000) for Federal income taxes result from the following adjustments made by Staff witness Winters:

Item (a)	State Income Taxes (b)	Federal Income Taxes (c)
1. Adjustment to reflect the tax effects of accounting and pro forma adjustments	$ 15,000	$ 114,000
2. Adjustment to normalize recorded North Carolina income taxes	295,000	(142,000)
3. Adjustment to normalize Federal income taxes on contributions in aid of construction		(49,000)
4. Adjustment to deferred Federal income taxes - liberalized depreciation		138,000
5. Adjustment to tax depreciation	4,000	28,000
6. Adjustment to investment tax credit - amortization		6,000
7. Adjustment to reflect income tax effects of interest expense allocation adjustment	(23,000)	(169,000)
Total	$291,000	$ (74,000)

The first item shown above results from witness Winters' adjustment to reflect the tax effects of his pro forma adjustments. Since the Commission did not adopt all of witness Winters' adjustment, the Commission has calculated the tax effect of the approved adjustments. The Commission concludes that State income taxes should be increased by $8,000 and Federal income taxes should be increased by $57,000 for this item.

The second item shown above results from witness Winters' adjustment to normalize State income taxes. Witness Winters testified that the North Carolina income tax expense recorded in the test year did not reflect a full year's income tax expense. He stated that because of a net economic loss carry-forward which eliminated the 1975 North Carolina income tax liability and because of the timing of certain accounting entries, the North Carolina income tax expense recorded in the test period was not at a representative level.

The Commission finds that rates should be set on a cost of service composed of representative levels of expense. The Commission concludes that State income taxes should be increased by $295,000 for this item and that Federal income taxes should be reduced by $142,000.

The third item results from witness Winters' adjustment to normalize Federal income tax on contributions in aid of construction (CIAC). Witness Winters testified that his adjustment defers the Federal tax expense related to CIAC over the period which the current year's CIAC will affect depreciation expense.

The Commission finds that it is proper to normalize the Federal income tax effects of CIAC and concludes that Federal income taxes should be reduced by $49,000 for this item.

The fourth item results from witness Winters' adjustment to deferred income taxes - liberalized depreciation. Witness Winters testified that this adjustment was necessary to reflect the deferred income taxes based on annualized depreciation at December 31, 1976.

The Commission finds that this adjustment is consistent with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing. The Commission concludes that Federal income taxes should be increased by $138,000 for this item.

The fifth item results from witness Winters' adjustment to tax depreciation. Witness Winters testified that this adjustment was necessary to reflect the income tax effect of annualized tax depreciation at December 31, 1976.

The Commission finds that this adjustment is consistent with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing. The Commission concludes that State income taxes should be increased $4,000 and Federal income taxes should be increased $28,000 for this item.

The sixth item results from witness Winters' adjustment to investment tax credit - amortization. Witness Winters testified that this adjustment was necessary to reflect the amortization of investment tax credit at the December 31, 1976, level.

The Commission finds that this adjustment is consistent with the statutory requirement that the Commission consider known changes which have occurred up through the close of the hearing.

The Commission concludes that Federal income taxes should be increased $6,000 for this item.

The final item results from witness Winters' adjustment to reflect the income tax effects of the difference between his interest expense allocation to the North Carolina retail operations and that of Company witness Johnson.

Since the computation of the appropriate allocation of interest depends on the investment, the capital structure,

and the embedded cost of debt, the Commission will calculate the interest expense applicable to the North Carolina retail operations using the approved investment, capital structure, and embedded costs of debt as shown on Schedule II of this Order.

Based on this calculation, the Commission concludes that State income taxes should be reduced by $28,000 and Federal income taxes should be reduced by $214,000 for this item.

The proper level of State and Federal income taxes may be calculated as follows:

Item (a)	State Income Taxes (b)	Federal Income Taxes (c)
Income taxes proposed by witness Johnson	$ 44,000	$2,956,000
Adjustments to income taxes due to:		
The tax effects of approved adjustments to revenues, operations and maintenance expense, and taxes other than income	8,000	57,000
The normalization of recorded State income taxes	295,000	(142,000)
The normalization of Federal income taxes on contributions in aid of construction		(49,000)
The annualization of deferred Federal income taxes - liberalized depreciation		138,000
The annualization of tax depreciation	4,000	28,000
The normalization of investment tax credit amortization		6,000
The income tax effects of interest expense allocation adjustment	(28,000)	(214,000)
Total	$323,000	$2,780,000

Based upon all of the evidence offered by the witnesses, the Commission concludes that the proper level of operating revenue deductions is $45,602,000, calculated as follows:

Item (a)	Amount (b)
Operation and maintenance expense	$33,107,000
Depreciation	4,600,000
Taxes other than income	4,784,000
Income taxes - State	323,000
Income taxes - Federal	2,780,000
Charitable and educational donations (net of income taxes)	8,000
Total revenue deductions	$45,602,000

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Joseph F. Brennan, President of Associated Utility Services, Inc., and Staff witness Edwin A. Rosenberg, an economist in the Operations Analysis Section, testified on the cost of capital to Vepco. Mr. Brennan testified that the Company's overall cost of capital was 9.95% based on the original cost of investment. This overall cost of capital figure allowed for a return of 14.50% to original cost common equity and was based on a capital structure consisting of 50.6% debt at a cost rate of 7.72%; 14.2% preferred and preference stock at a cost rate of 8.04%; 33.8% common equity; and 1.4% cost-free capital. This capital structure and embedded cost rates were the estimated year-end 1976 figures.

Mr. Rosenberg testified that a reasonable estimate of the cost of capital to Vepco on an original cost basis was 9.30%. This estimate was based on a capital structure consisting of 52.56% long-term debt at a cost rate of 7.82%; 13.64% preferred and preference stock at a cost rate of 8.01%; 32.13% common equity at a cost rate of 12.75%; and 1.67% cost-free capital.

While there was some difference of opinion between the witnesses as to the specific cost of capital to Vepco, both seem to feel that there are certain standards which a fair rate of return must meet. It must be sufficient to assure confidence in the financial soundness of the company; it should be sufficient to allow the common stock of the company to sell at a market price greater than its book value under normal market conditions; it should consider the effects of regulatory lag, attrition, managerial efficiency, and the fair value of the company's investment in the service to the ratepayers; and it should return at least the company's cost of capital. With these requirements for a fair rate of return in mind, each witness then applied himself to the task of estimating the cost of capital to Vepco.

While there were some differences in the capital structures used by the two witnesses, the major difference in their testimony was in the area of their determination of

the proper cost rate to be applied to the equity component. Mr. Brennan based his recommendation on the results of his study which included an analysis of earnings/price ratios for Vepco, Moody's 24 Utilities, and eight "barometer" electric utilities which he considered to be roughly comparable to Vepco for the purpose of estimating the cost of equity. Additionally, Mr. Brennan relied in part on the results of a regression analysis which related the change in AT&T's earnings/price ratio over the period 1965 through 1975 to the changes in that firm's equity ratio over the same period. He also considered the "bare rent" theory, financial ratios, and interest coverage requirements. Finally, based on the Company's estimate of the fair value of plant in service, he found that the cost of capital would be between 8.81% and 9.50% based on the assumption that the fair value was 128.8% of original cost.

Mr. Rosenberg based his finding that a reasonable estimate of the cost of equity to Vepco was 12.75% on his application of the Discounted Cash Flow (DCF) technique to Vepco and a group of 12 electric utilities which he judged to be reasonably comparable to Vepco for the purposes of estimating the cost of equity. He compared the result with evidence available on current market price to book value ratios and current achieved rates of return on common equity for the electric utility industry and for the electric utilities with the same bond ratings as Vepco.

The areas in which the witnesses differed then were in the capital structure and in the cost rates for the classes of capital. The differences were slight in all areas except in the cost of equity. It seems reasonable, however, to accept the capital structure and embedded cost rates as proposed by the Staff because the differences were slight and the Staff used the most recent available figures which were known rather than expected or estimated.

In the area of the cost of equity capital, the differences were not slight and, although there was considerable difference in methodology employed, it appears that if Mr. Rosenberg's recommendation were adjusted to reflect the same market price to book value ratio as Mr. Brennan's, his recommendation would lie in the same range.

The determination of the fair rate of return must be made with great care. Whatever return is allowed, there will be immediate impact upon both the Company and the retail ratepayers of North Carolina. The Commission has responsibilities to both of these parties. Indeed, the Commission is charged with ensuring that both the Company and the ratepayers are treated in an equitable manner. It is therefore imperative that considerable effort and judgment be applied to this matter which is both important and not without its difficulties, for much of the final interpretation is very subjective.

In this case, Mr. Brennan and Mr. Rosenberg testified to the issue of Vepco's cost of capital. Additionally, Mr. Brennan described how he would adjust his cost of capital to reflect the addition of the Company's assumed fair value increment. Both witnesses felt that the starting place for the determination of the fair rate of return lies in the proper determination of the cost of capital. Neither witness felt that a return could be deemed fair if it did not allow the Company to recover its cost of capital. The Commission agrees with this. Only in circumstances where it has been demonstrated that the Company should not have the privilege of recovering its cost of capital should the fair rate of return allow the recovery of less than this cost. As a starting point, then, we will analyze the issue of the cost of capital. Without a reasonable estimate of the cost of capital, it would be very difficult to fix a fair rate of return.

The differences in the estimates of the cost of capital of Vepco result mainly from differences in the estimated cost of equity. It should be said at the outset of this discussion that no technique or method of analysis will produce reasonable estimates of the cost of equity unless great care is taken in its application and in drawing inferences from the results. Mr. Brennan stated that the cost of equity to Vepco was 14.5%. When examined closely, this conclusion rests on two ideas. The first is that primary weight and emphasis should be given to earnings/price ratios as a guide to the cost of equity. The second is that the cost of equity should allow the stock to sell at a market price to book value ratio of 1.25%. The Commission finds fault with both of these contentions. Mr. Brennan himself characterized the earnings/price ratio as a "partial" cost rate because it does not consider the growth which is implicit in the price of the stock. Does this mean that the earnings/price ratio will underestimate the cost of equity? Since Mr. Brennan did not adequately demonstrate how to take growth into account, we cannot give great credence to this method as applied here. His second contention was that the market to book ratio should be 1.25%. This seemed to rest on his opinion alone. Vague and unsupported references to an allowance of 15% for "vagaries of the market" cannot be allowed to impose a financial burden upon the retail ratepayers of North Carolina. While a reasonable premium of market price to book value should be allowed in order to reflect the probable expenses associated with the attraction of additional equity, this Commission cannot and will not attempt to set rates high enough to effectively insulate the Company from the market. What seems proper, however, is to allow a return sufficient to provide for a reasonable premium in "normal" markets. In buoyant markets, the premium will increase due to market optimism and in depressed markets, the premium will fall due to market pessimism but, on average, the Company should be able to market its stock and receive at least book value. It appears then that a premium of 10% should be sufficient for this purpose.

Mr. Rosenberg's estimate of the cost of equity of 12.75% seems a bit low. Although he applied the DCF technique to a group of electric utilities with some of the same characteristics as Vepco, it appears that Vepco, because of its poor market performance, may be marginally more risky than most of the firms in the group. An estimate of the cost of equity then should reflect this marginal difference. We feel, therefore, that a reasonable starting point for determining the fair rate of return is to use a cost rate for equity of 13%. That is, we believe that if Vepco were able to earn a return of 13% on its book common equity, it would be able to attract both equity and debt capital on reasonable terms. At this rate of return it is unlikely that investors would be queuing up to purchase Vepco's securities, but the Company should be able to attract sufficient capital on reasonable terms.

When the cost of equity is included at 13%, the overall cost of capital to Vepco is indicated to be 9.38% on an original cost basis. When the fair value increment of $22.526 million is added to the capital structure, the resulting ratios are 44.42% long-term debt; 11.53% preferred and preference stock; 42.65% common equity; and 1.40% cost-free capital. Based on this capital structure, we conclude that a return of 8.10% would be fair. This return implies a return of 8.69% on the fair value common equity, which equates to a return of 13.65% on the original cost or book equity in service to the North Carolina retail customers.

In setting the return on rate base at this level, the Commission has considered all the relevant evidence on this matter including the reduction in additional capital required due to the cessation of construction on Surry units 3 and 4 as well as the helpful effects of the Company's load management and conservation program and concludes that the return allowed herein will fulfill both the letter and the spirit of the law. As the Supreme Court of North Carolina has said:

> "In this State the test of a fair rate of return is that laid down by the Supreme Court of The United States in Bluefield Water Works & Improvement Company vs. Public Service Commission of State of West Virginia, 262 U. S. 679, 43 S. Ct. 675, 67 L. Ed. 1176; that is, if the company continues to earn such a rate of return, will it be able to attract on reasonable terms the capital it needs for the expansion of its service to the public: See, G.S. 62-133(b)(4)." State ex rel. Utilities Commission vs. Morgan, 278 N. C. 235, 238 (1971).

The test then is not one of the absolute percentage rate of return allowed but of the effect. If Vepco earns 8.10% on the fair value of its investment in service to its North Carolina retail customers, will it be able to discharge its duties to its investors and the public? We believe that it will and that the weight of the evidence supports this conclusion.

The following schedules 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 schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

SCHEDULE I
VIRGINIA ELECTRIC AND POWER COMPANY
DOCKET NO. E-22, SUB 203
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1976
ADJUSTED FOR KNOWN CHANGES
(000's OMITTED)

	Present Rates	Increase Approved	After Approved Increase
Operating revenues	$ 55,675	$3,709	$ 59,384
Operating revenue deductions:			
Operation and maintenance expense	33,107		33,107
Depreciation	4,600		4,600
Taxes other than income	4,784	223	5,007
Income taxes - State	323	209	532
Income taxes - Federal	2,780	1,573	4,353
Charitable and educational donations (net of income taxes)	8		8
Total revenue deductions	45,602	2,005	47,607
Net operating income for return	$ 10,073	$1,704	$ 11,777
Investment in electric plant:			
Electric plant in service	$148,083		$148,083
Less: Accumulated depreciation	(33,091)		(33,091)
Amortization of nuclear fuel assemblies	(476)		(476)
Net investment in electric plant in service	114,516		114,516

Allowance for working capital:		
Materials and supplies	4,686	4,686
Cash	4,082	4,082
Minimum bank balances	760	760
Prepayments	110	110
Investment in leased nuclear fuel	15	15
Less: Average tax accruals	(866)	(866)
Customer deposits	(310)	(310)
Customer advances for construction	(130)	(130)
Total allowance for working capital	8,347	8,347
Net investment in electric plant and allowance for working capital	$122,863	$122,863
Fair value rate base	$145,389	$145,389
Return on fair value rate base	6.93	8.10

SCHEDULE II
VIRGINIA ELECTRIC AND POWER COMPANY
DOCKET NO. E-22, SUB 203
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1976
ADJUSTED FOR KNOWN CHANGES
(000's OMITTED)

	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Operating Income
	Present Rates - Fair Value Rate Base			
Long-term debt	$ 64,577	44.42	7.82	$ 5,050
Preferred stock	16,759	11.53	8.01	1,342
Common equity				
Book $39,476				
Fair value increment 22,526	62,002	42.65	5.94	3,681
Cost-free capital	2,051	1.40		
Total	$145,389	100.00	6.93	$10,073

	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 64,577	44.42	7.82	$ 5,050
Preferred stock	16,759	11.53	8.01	1,342
Common equity				
Book $39,476				
Fair value increment 22,526	62,002	42.65	8.69	5,385
Cost-free capital	2,051	1.40	---	---
Total	$145,389	100.00	8.10	$11,777

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for this Finding of Fact is contained in the Company's prefiled data and minimum filing requirements exhibits, which accompanied the original application for general rate relief, and the testimony of Commission Staff witness Williams. The Staff's evidence consisted of an analysis of its investigation of Vepco's fuel procurement activities, including its review of the Company's long-term coal contracts, oil contracts and "spot" coal procurement activities.

Staff witness Williams testified that the Company's fuel procurement activities appeared reasonable and within the guidelines adopted by the Commission.

From the evidence presented, the Commission concludes that Vepco's fuel procurement activities and purchase policies are reasonable and are in accordance with practices heretofore reviewed and approved by this Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence on the proper base fuel cost level to be incorporated into the basic rate design and into the proper G.S. 62-134(e) fuel cost adjustment formula was contained in the testimony and exhibits offered by Company witness Johnson and Staff witness Williams.

Company witness Johnson testified that the base fuel cost level (1.290¢/KWH) utilized in the recommended formula for rate adjustments based solely on the cost of fuel pursuant to G.S. 62-134(e) and incorporated into the basic rate design approved in the Company's last general rate case was continued in the rate design proposed by the Company in its application in this proceeding. In subsequent testimony, he further testified that the actual fuel cost experience in the calendar year 1976 was 1.384¢ per kilowatt-hour and that the probability of this average level of fuel cost declining in the near future was small due to continuing mechanical problems at the Surry Nuclear Plant. Mr. Johnson

recommended that the base fuel cost level be adjusted to reflect the more current calendar year 1976 fuel cost experience.

Staff witness Williams testified that the 1.290¢ per kilowatt-hour base fuel cost level incorporated into the basic rate design was correct and appropriate based on the fuel cost experience in the test year (12 months ending June 30, 1976) and recommended that this base fuel cost level be included in the rates approved in this proceeding. Under cross-examination, Mr. Williams testified that the higher fuel cost experience in the calendar year was a result of abnormal operations of the Surry Nuclear Plant in late 1976 and that the base fuel cost level is more appropriately established on normal plant operations.

Based upon the foregoing testimony, the Commission concludes that the base fuel cost level to be incorporated into the basic rate design and into the recommended fuel cost adjustment formula (G.S. 72-134(e) and Commission Rule R1-36) of 1.290¢ per kilowatt-hour originally proposed by the Company and recommended by the Staff is representative of normalized test year experience. The proper base fuel cost level which is appropriate for use in this proceeding is 1.290¢ per kilowatt-hour and this base fuel cost level should be reflected in the basic rate design and recommended fuel cost adjustment formula.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

W. L. Proffitt, Senior Vice President of Vepco, and Dennis J. Nightingale, Electric Engineer of the Staff, presented testimony on the adequacy of generation facilities, reserve margins and proposed construction schedules. Neither of the public witnesses addressed the quality of electric service to retail customers. In the absence of complaints relative to the reliability and adequacy of electric service provided to Vepco's North Carolina retail customers, the Commission presumes that Vepco's quality of electric service is adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The Commission will now analyze the testimony of Staff witness Winters regarding Vepco's accounting treatment of spent nuclear fuel. Witness Winters testified that Vepco records the excess of market value over the original cost of uranium and plutonium in spent nuclear fuel in an Other Investments Account and that corresponding entries are made to decrease fuel expense. He further testified that decreases in fuel expense are not passed on to consumers through the fuel clause and that writing up assets to market values is in violation of generally accepted accounting principles and accepted regulatory concepts. Witness Winters also stated that this accounting treatment was prescribed by the State Corporation Commission of the

Commonwealth of Virginia. Witness Winters' testimony was not contravened by the Company.

The Commission finds that the retail ratepayers in North Carolina have not benefited in any way from Vepco's having recorded the excess of market value over original cost of the uranium and plutonium in spent nuclear fuel and that this treatment violates the instructions in the National Association of Regulatory Commissioners Uniform System of Accounts prescribed by this Commission that spent nuclear fuel be recorded at original cost.

The Commission concludes that Vepco's practice of recording the excess of market value over original cost of uranium and plutonium in spent nuclear fuel as prescribed by the State Corporation Commission of the Commonwealth of Virginia does not conform to this Commission's requirement that assets be recorded at original cost.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Testimony concerning the design of Schedule No. 1 - Residential Service was offered by H. M. Wilson, Jr., Director of Rates for Vepco, and by Dr. Dennis W. Goins, an economist for the Commission Staff. Mr. Wilson testified that the Basic Facilities Charge should be stated as a Basic Customer Charge on all future monthly bills and that the summer and base period billing months should be changed to June through September and October through May, respectively. Dr. Goins agreed that these changes were appropriate.

The residential rate design proposed by Mr. Wilson is the same as the rate design approved by the Commission in Docket No. E-22, Sub 170. However, Mr. Wilson proposed that the summer-base tail block price differential be increased from 1.99¢ per kilowatt-hour (KWH) to 2.541¢ per KWH. Dr. Goins presented an alternative residential rate schedule that he designed. This schedule differed from the design of both the current and the proposed Schedule No. 1 in four respects: (1) the summer tail block was eliminated and a single block KWH charge applicable to all summer period usage was substituted; (2) two KWH blocks were introduced to replace the three KWH blocks in the base period rates; (3) the summer-base price differential was decreased; and (4) the number of hours to which the water heating provision is applicable was increased from 600 KWH to 800 KWH. In addition, Dr. Goins proposed a Basic Customer Charge of $5.75 per customer per month instead of the $6.15 monthly charge proposed by Mr. Wilson.

The KWH block arrangement proposed by Dr. Goins simplifies the design of the rate schedule and enables the rate designer to set the summer-base price differential at a reasonable level. The current inverted summer rate and the large summer-base price differential were intended as

methods to give customers proper price signals regarding the cost differences of consuming large quantities of electricity in the summer and base periods. Dr. Goins testified that since 1970 the Vepco winter system peak has grown at a faster rate than the summer system peak and that Vepco's summer and winter system peaks are expected to grow at approximately the same rate through 1986. Given these data, the Commission does not believe that increasing the summer-base price differential will give residential customers proper price signals regarding the time-related cost differences associated with their consumption of electricity in different time periods.

The Commission concludes that Schedule No. 1 should be designed to reflect the changes proposed by Dr. Goins and to incorporate the terminology and seasonal billing month changes proposed by Mr. Wilson. The approved Schedule No. 1 Residential Service incorporates these changes and is attached in Appendix A. This approved rate schedule recovers costs in an efficient and equitable manner, conveys proper price signals to residential customers, minimizes the impact of the redesign on monthly bills, and moves toward a more proper residential rate design.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The Company's witness on rate design testified that the rates proposed by Vepco in this docket were initially designed to achieve uniform rates of return for all classes of service based on a cost-of-service allocation study for the 12 months ending June 30, 1976. He further testified that minor adjustments were made so that the pricing of Schedule Nos. 30 and 42 would not be higher than that of Schedule Nos. 5 and 7.

The Staff presented testimony indicating that the effects of the Company's proposed rates on the rates of return by classes for the 12-month period ending December 31, 1975, had also been reviewed. On that basis, it was found that the rates of return for all classes would have been within 8.5% of the retail average rates of return which represented a significant reduction in the variations in returns between classes. In addition, it was testified that consideration must be given to factors other than costs in designing rates such as possible customer impact, inherent relationships between rates, and historical rate design. For these reasons, the Staff agreed with the distribution of the proposed revenue increase among rate classes.

The Commission is of the opinion that the distribution of relative revenue increase between rate classes proposed by the Company is appropriate and should be generally maintained, as the rates are repriced to produce the total level of revenues approved herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. |8

Mr. Wilson, Vepco's rate design witness, described the proposed changes in rate design. The Company originally proposed to change the summer billing period from July through October to June through September for all of its schedules except Schedule Nos. 6 and 5P. Mr. Wilson stated that the new period would be more representative of seasonal customer usage patterns.

Vepco later requested that the summer rating period not be changed at this time but that the Commission require the change after this summer season. As a reason for the request, Mr. Wilson stated that there would be inadequate time to notify the customers of the change before this summer season and, therefore, considerable confusion could result.

Additional changes in rate design for general service and lighting schedules proposed by the Company included a simplification of the blocking of Schedule Nos. 5, 7 and 30 and the addition of a separately stated Customer Charge to Schedule Nos. 5, 30 and 42. The Company also proposed to include a demand charge in Schedule No. 5 for demand in excess of 200 KW to limit the migration of customers between Schedule Nos. 5 and 6.

The Staff testified that the design of the general service and lighting schedules were reviewed. The Staff witness agreed with the design changes proposed by the Company in these rate schedules. In addition, the Staff's witness proposed that the billing demand ratchet of Schedule No. 6 be changed to include a minimum billing demand provision based on winter usage (50% of the maximum winter demand). Testimony was presented that, in recent years, Vepco's winter peaks have grown faster than its summer peaks. The addition of a winter ratchet provision would provide a mechanism for signaling customers of the relative growth of the winter peaks and for recovering costs associated with maintaining local facilities for winter peaking customers.

From review of the evidence presented, the Commission concludes that the changes in rate design proposed by the Company are reasonable. The Commission is aware of the relative growth of winter load and, thus, is of the opinion that the Staff's recommendation to include a winter ratchet provision in Schedule No. 6 (Large General Service) is appropriate. The Commission further concludes that the summer rating period stated in the rates should remain as presently in effect and would recommend that the Company file to change these summer rating periods after the |977 summer season so that adequate notice can be provided customers.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

The Company's witness testified that the increase in cost since the last rate proceeding which prompted this rate increase request had been primarily demand-related. For that reason, Vepco designed its proposed general service rates by increasing only the demand-related portions of each rate. For Schedule Nos. 5, 5P and 7, the adjustments were "across-the-board" percentage increases. The adjustments to Schedule No. 6 were in the form of the addition of a uniform amount to each demand block. The pricing of the blocks of Schedule Nos. 30 and 42 were set at the same values as those in Schedule Nos. 5 and 7, respectively.

The Staff's testimony indicated that the Company's procedure for adjusting the charges in the proposed general service rates resulted in an increase in the seasonal differential in summer and winter pricing (for the rates which include a seasonal price differential). The Staff testified that since the winter charges are lower than summer charges, an across-the-board percentage increase does not increase the winter charges as much as the summer charges in absolute terms, thus the differential in absolute price increases. Further, the Staff indicated that under the conditions of faster growth of the winter peak relative to the summer peak, an increase in pricing differential would give the customer an inaccurate pricing signal. For this reason, the Staff proposed that Schedule Nos. 5, 5P and 7 (and, thus, 30 and 42) be repriced to insure that the relative differentials in summer and winter prices remain as presently in effect.

The Staff also testified that the review of Vepco's proposed lighting schedules indicated that the charge for several of the fixtures was increased significantly (60-100%). Although these increases were based on cost, the Staff recommended that the increases on the price of any fixture be limited to 50% because of the possible impact on individual customers.

The Commission concludes that the changes in pricing proposed by the Staff are appropriate for the reasons presented. The Commission is of the opinion that Vepco's rates should be repriced to include the Staff's proposals described above and to reflect the lesser amount of general revenue increase approved herein. Appendix A consists of a set of rate schedules which have been designed to incorporate all of the changes concluded by the Commission to be appropriate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The Company's witness presented several changes in the wording of its Service Rules and Regulations and Terms and Conditions of Service. With respect to the Service Regulations, one major adjustment proposed by Vepco was the inclusion of a $6.50 charge for trouble calls where it is

determined that the Company's equipment is not at fault. Another proposal was to include wording which would allow the Company to charge a security deposit against future damages when evidence of meter tampering is found on a customer's premises. A third proposal was to increase the facilities charge to reflect the return requested in this proceeding.

The Staff's testimony indicated that it was in agreement with all of the Company's proposed changes except the facilities charge. The Staff indicated this charge should be adjusted to reflect the return approved by the Commission.

The Commission is of the opinion that the Service Rules and Regulations and other provisions of service proposed by the Company should be approved as filed with the exception of the facilities charge. The Commission concludes that the Facilities Charges should be repriced to reflect the overall rate of return approved herein. The Service Rules and Regulations and other provisions of service included in Appendix A contain all of the changes concluded appropriate by the Commission with the exception of the facilities charge. This charge should be recalculated as described above and incorporated in the Service Rules and Regulations shown in Appendix A.

IT IS, THEREFORE, ORDERED as follows:

1. That effective for retail electric service rendered in North Carolina on and after July 5, 1977, Virginia Electric and Power 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 $3,709,000.

2. That the rates and changes to the Service Rules and Regulations approved herein, with the exception of changes to the Facilities Charges, are set forth in Appendix A attached hereto. The Company shall reprice the Facilities Charges to reflect the rate of return approved herein and incorporate this charge into the Service Rules and Regulations shown in Appendix A. The Company shall file amended tariffs reflecting the rates and Service provisions contained in Appendix A on or before July 5, 1977.

3. That Vepco maintain adequate records to clearly identify any amounts recorded to reflect the excess of market value over original cost of uranium and plutonium in spent nuclear fuel and that any such excess so recorded shall not be amortized in any way to operating expense without approval of this Commission.

4. That the formula for fuel cost adjustments under G.S. 62-134(e) attached hereto as Appendix B be, and the same is hereby, approved for continued use with any filing made under G.S. 62-134(e).

5. That Vepco shall give public notice of the rate increase approved herein by mailing a copy of the notice attached hereto as Appendix C 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 30th day of June, 1977.

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

NOTE: For Appendices A, B, and C, see official Order in the Office of the Chief Clerk.

DOCKET NO. E-22, SUB 203

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Virginia Electric and Power Company for Authority to Adjust and Increase Rates and Charges	) DECISION AFFIRMING ORDER) OF JUNE 30, 1977, ON) RECONSIDERATION)

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on September 8, 1977

BEFORE: Commissioner Leigh H. Hammond, Presiding; Commissioners Ben E. Roney, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters (Commissioner Deane participating by reading transcript of Oral Argument)

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Joyner and Howison, P.O. Box 109, Raleigh, North Carolina 27602

Guy T. Tripp III, Hunton and Williams, P.O. Box 1535, Raleigh, North Carolina 23217

For the Public Staff:

Robert F. Page, Assistant Staff Attorney, North Carolina Utilities Commission - Public Staff, P.O. Box 991, Raleigh, North Carolina 27602

For the Attorney General:

Richard L. Griffin, Assistant Attorney General, P.O. Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: This matter is now before the Commission on reconsideration pursuant to G.S. 62-80, both on the Commission's own motion and upon motion by the Public Staff.

On July 22, 1977, the Public Staff filed Notice of Intervention and Petition for Reconsideration. On July 25, 1977, the Commission entered an Order Setting the Docket for Hearing on Oral Arguments and Requiring Briefs. By Motion filed on August 2, 1977, Virginia Electric and Power Company (VEPCO) filed a Motion for continuance of the Oral Argument from August 30, 1977, to the week of September 5, 1977, and that Motion was allowed by Commission Order of August 8, rescheduling the Oral Argument for September 8, 1977. Briefs were filed by the parties and Oral Argument was heard on September 8, 1977.

Chairman Koger did not participate following an opinion of the Attorney General that his prior participation as Director of Engineering in the staff investigation of the application would prevent his voting on Reconsideration. See also Burke vs. Railway Company 257 NC 683 (1962).

The Commission's decision on reconsideration of this proceeding is based upon the evidence of record taken at the Hearings and at the Oral Argument of September 8, 1977, wherein all parties were allowed the opportunity to be heard under the provisions of G.S. 62-80.

Based upon reconsideration of the record herein and the pleadings and briefs and arguments of the parties relating thereto, the Commission by evenly divided decision concludes that the Order of June 30, 1977, herein should not be altered or amended and, thus, remains in full force and effect. While the evidence of record is distinguishable from that in Docket No. E-2, Sub 297, the application of Carolina Power and Light Company, the issues raised on the Petition for Reconsideration are similar, and the Commission's evenly divided vote has the same effect of upholding the Order of June 30, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This 22nd day of September, 1977.

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

Commissioners Deane, Roney and Tate, voting to affirm. Commissioners Hammond, Fischbach and Winters, dissenting. Chairman Koger, not participating.

DOCKET NO. E-22, SUB 212

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 May 31, 1977, 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 0.180 cents for each kilowatt-hour sold under its filed rate schedules beginning with the billing month of July 1, 1977.

The Application of VEPCO sought approval of a 0.334¢/KWH adjustment to the basic retail rate schedules in lieu of the 0.514¢/KWH adjustment previously approved by the Commission effective for the billing month of June, 1977. The 0.180¢/KWH decrease, as shown on Fuel Charge Rider-Y, is based solely on the decreased cost of fuel used in the generation of electric power during the months of February, March and April, 1977.

With the Application the Company filed the affidavits of R. C. Houghton, Jr., Director of Regulatory and Statistical Services, D. R. Hostetler, Manager of Nuclear Fuel Services and R. N. Fricke, Manager of Fossil Fuel Services. Mr. Houghton offered information as to the determination of the 0.334¢/KWH factor. Mr. Fricke reviewed VEPCO's fuel purchasing practices for the month of April, 1977. Mr. Hostetler, testified on the company's calculation of the nuclear fuel salvage values.

The Staff reported on its investigation and review of this application at the Commission's regular weekly meeting on June 13, 1977.

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-Y, increasing by 0.334¢ 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, 1977, in lieu of the previously approved adjustment of 0.514¢/KWH.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of June, 1977

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

DOCKET NO. E-22, SUB 216

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, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, October 18, 1977 at 9:30 a.m.

BEFORE: Robert K. Koger, Presiding; Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, John W. Winters

APPEARANCES:

For the Applicant:

Guy T. Tripp III, Esq., and Edgar M. Roach, Jr., Esq., Hunton and Williams, P. O. Box 1535, Richmond, Virginia 23212

Robert C. Howison, Jr., Esq., Joyner and Howison, P. O. Box 109, Raleigh, North Carolina 27602

For the Public Staff:

Dwight Allen, Assistant Staff Attorney - Public Staff, 430 N. Salisbury Street, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Intervenors:

Richard L. Griffin, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: On September 30, 1977, Virginia Electric and Power Company (hereinafter referred to as "VEPCO") filed an Application for authority to adjust and decrease its retail electric rates and charges based solely upon the decreased cost of fuel used in the generation of electric power pursuant to G. S. 62-134(e). VEPCO requested approval of Fuel Charge Rider-CC, which would adjust the charge for each kilowatt-hour by 0.354 cents which is a decrease of 0.025¢/KWH from the 0.379¢/KWH adjustment contained in Fuel Charge Rider-EE approved on September 27, 1977.

On October 3, 1977, the Commission issued an Order Setting Hearing and Requiring Notice.

The hearing was commenced on October 18, 1977 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 fuel adjustment factor, and B. 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 Public Staff offered the testimony of Andrew W. Williams, Director of the Electric Division, testifying on the Public Staff's review of the evidence presented by VEPCO in support of Fuel Charge Rider-CC and recommending a modification in the current fuel cost adjustment procedure.

The portion of the hearing dealing with the Public Staff's recommendation for a modification in the existing fuel cost adjustment procedure was continued until November 21, 1977. This matter will be consolidated for hearing with similar testimony in Carolina Power and Light Company, Docket No. E-2, Sub 316 and Duke Power Company, Docket No. E-7, Sub 231.

After careful consideration and scrutiny of the evidence and testimony offered by both Virginia Electric and Power Company and the Public Staff, the Commission is of the opinion, and so concludes, that the adjustment in rates, as shown on Fuel Charge Rider-CC, 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 0.379¢/KWH, Fuel Charge Rider-CC, which adjusts VEPCO's basic rates by an increase of 0.354 cents for each kilowatt-hour is approved effective for bills rendered beginning with the billing month of November, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of October, 1977.

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

DOCKET NO. E-35, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina) RECOMMENDED ORDER
University for an Adjustment of) APPROVING INCREASE
Its Rates and Charges) IN RATES AND CHARGES

HEARD IN: Jackson County Courthouse, Sylva, North Carolina, on March 9, 1977, at 9:30 a.m.

BEFORE: Chairman Tenney I. Deane, Jr.

APPEARANCES:

For the Applicant:

William E. Scott, Legal Counsel, Western Carolina University, Cullowhee, North Carolina 28723

For the Commission Staff:

Jane S. Atkins, Associate Commission Attorney, Ruffin Building, One West Morgan Street, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 20, 1976, Western Carolina University (Western Carolina) filed an Application with the Commission seeking to increase the rates and charges for electric service to its retail customers in the Jackson County, North Carolina area. The proposed increase, in the form of a 20.59% across-the-board charge, results from a 29.5% increase in wholesale rates charged Western Carolina by its wholesale supplier, Nantahala Power and Light Company.

In response to said Application, the Commission, on September 7, 1976, issued an Order Approving Interim Rates, Setting the Matter for Investigation, and Requiring Public Notice. The effect of that Order was to approve the requested increase, effective October 1, 1976, on an interim basis subject to refund pending final determination by the Commission.

Following the issuance of said Order the Commission received petitions containing over 1500 signatures in protest of the proposed rate increase. In view of said protest, the Commission, on December 2, 1976, issued an Order setting the matter for hearing and requiring public notice.

Pursuant to said Order and following public notice, hearing was held on March 9, 1977, at 9:30 a.m. in the Jackson County Courthouse, Sylva, North Carolina.

George M. Duckwall, Utilities Engineer with the Commission, appeared at hearing and offered testimony on behalf of the Commission Staff. William Stump, Manager of the electric distribution system for Western Carolina, offered testimony on behalf of Applicant.

The following public witnesses testified in opposition to the proposed increase: Lebern Dills, Mamie Mills, James Bumgarner, Lonnie Dills and Jerdie Stephens.

Based on the Application as filed, the testimony at hearing and from the record as a whole, the Commission makes the following

FINDINGS OF FACT

(1) Applicant, although not a public utility, is subject to the jurisdiction of the North Carolina Utilities Commission with respect to the rates and services to its electric retail customers in North Carolina.

(2) On October 1, 1976, Applicant experienced a 29.5% increase in the cost of purchased power from its wholesale supplier of electricity, Nantahala Power and Light Company, which cost of power has been recovered by Applicant through an across-the-board increase of 20.59% approved on an interim basis effective October 1, 1976.

(3) Applicant can recover its increased wholesale costs through a 17.25% across-the-board increase which would not increase its level of earnings or rate of return on investment, but would only avoid attrition in earnings occasioned by increased purchased power expenditures.

(4) The overall service of Applicant is adequate.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO.

The evidence for this finding is found in the Application submitted by Western Carolina and is not contested. This finding is procedural in nature and does not warrant further discussion.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2 & 3

The evidence for Findings of Fact Nos. 2 and 3 can be found in the Application of Western Carolina and the testimony of William C. Stump and George M. Duckwall.

Witness Stump testifying for the Applicant, testified that he had reviewed the 29.5% wholesale increase and had computed a 20.59% retail increase as being the amount required to recover the increased wholesale cost.

Witness Duckwall, testifying for the Commission Staff, stated that said wholesale increase could be recovered by a 17.25% across-the-board retail increase. Mr. Duckwall attributed the difference in his percentage calculation and that of the Applicant to the following adjustments:

(a) The purchase power expense increase calculated by Applicant involved an averaging of all bills while Witness Duckwall made his calculations from an analysis of actual billing considering both demand and energy charges.

(b) Witness Duckwall reduced the purchase power expense shown by Western Carolina to account for the amount collected during the test year through the purchased power fuel adjustment charge.

(c) Witness Duckwall proformed the test year revenues to allow for a 13% pass through effective February 1976. This pass through was not included in Applicant's calculations.

The net effect of the above adjustments is to reduce the revenue requirements needed by Western Carolina by $61184.86 as detailed in GMD-1, attached as an exhibit to Mr. Duckwall's testimony. The Commission concludes that these adjustments, which result in a 17.25% across-the-board increase, are reasonable and should be adopted.

Additionally, Witness Duckwall modified the purchased power cost adjustment clause to enable Western Carolina to recover both the demand and energy costs of Nantahala's monthly purchased power cost adjustment factor. This modification, which was an exhibit to Mr. Duckwall's testimony is expressed as set forth in Appendix A attached hereto. The Commission concludes that said modification is reasonable and should be approved.

The Commission is aware that this 17.25% increase is less than the interim increase of 20.59% approved on an interim basis by Order issued September 7, 1977. However, the Commission notes that the revenues collected under the purchase power fuel adjustment charge have been inadequate and that the adjustments made by Witness Duckwall and approved herein, will correct this problem in the future. The Commission, therefore, concludes that the costs recovered under the interim increase effective October 1, 1976, are reasonable and should not be subject to refund.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this finding appears in the testimony of the public witnesses and in the testimony of Staff Witness Duckwall. The public witness expressed concern that voltage levels on both the Wilson Creek and Cave Creek circuits were not within Commission standards. While Western Carolina should work to improve these voltage problems, the Commission notes that the voltage problems experienced in previous tests had been corrected and that overall voltage levels are adequate.

Both line maintenance and safety code problems have improved since the previous investigation.

IT IS, THEREFORE, ORDERED THAT:

(1) Effective with electric service rendered on or after the date of this Order, Applicant, Western Carolina, is authorized to collect an across-the-board increase of 17.25%

over the rates in effect on September 30, 1976, on a permanent basis.

(2) All sums collected under the interim increase effective October 1, 1976, should be retained by Applicant.

(3) The purchased power adjustment clause outlined in Appendix A remain in full force and effect.

(4) In the event Western Carolina should receive a refund from Nantahala for wholesale purchases involved in this docket, said refund shall be passed to Applicant's retail customers in like manner.

ISSUED BY ORDER OF THE COMMISSION.
This the 13th day of April, 1977.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

APPENDIX A

Modification of Purchased Power
Cost Adjustment Formula

$$A = \frac{(D+E)}{P} \times \frac{1}{(1-L)}$$

A = Amount of adjustment to be added to customers' bills in dollars per Kilowatt hour.

D = Total dollars of demand portion of purchased power cost adjustment factor for the month preceding the current billing month.

E = Total dollars of energy portion of purchased power cost adjustment factor for the month preceding the current billing month.

P = Kilowatt hours purchased during the month preceding the current billing month.

L = Loss factor for the preceding fiscal year. (8.21% for 1975-1976).

DOCKET NO. E-42

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Roselle Lighting Company, Incorporated, for the Approval of an Agreement for the Town of Landis, North Carolina, to Purchase the Assets of Roselle Lighting Company, Incorporated	) ORDER) APPROVING) TRANSFER))

BY THE COMMISSION: On January 7, 1977, Roselle Lighting Company, Incorporated ("Roselle"), Post Office Box 55, Landis, North Carolina, filed an application with the Commission for approval of a contract, which was attached to the application, whereby Roselle would sell all its electric properties and equipment to the Town of Landis ("Town") at a purchase price of $700,000 plus the value of certain accounts receivable of Roselle and plus or minus certain other adjustments, all as set forth in Paragraph 2.1, 2.2, and 2.3 of the contract; and whereby, upon consummation of the transaction, the Town will provide electric service to the former customers of Roselle at the existing rates for the Town's present customers. Roselle further asked that the Commission reassign to the Town, if necessary, the service area heretofore assigned by the Commission to Roselle. Roselle also requested that the Commission give consideration to the application so that, if approved, the transfer could be completed in early March, 1977.

In the application, Roselle stated as follows: (1) that Roselle is a corporation duly created, organized and existing under and by virtue of the laws of the State of North Carolina and having its principal office and place of business in Landis, Rowan County, North Carolina; (2) that Roselle is a public utility engaged in the transmission, distribution and sale of electric service at retail in Rowan County, North Carolina, and as such, is subject to the regulatory jurisdiction of the Commission; (3) that Roselle is presently serving approximately 955 residential and 82 commercial customers in the South Rowan County area with approximately sixteen (16) miles of primary lines; (4) that Roselle does not furnish electric service to anyone wholesale, is not engaged in interstate transmission of electricity, and is not subject to the Federal Power Commission or the Securities and Exchange Commission; and (5) that Roselle's sub-station is located inside the corporate limits of Landis on South Chapel Street and the Company's office is located at 201 East 29th Street in Kannapolis, North Carolina.

The application further stated as follows: (1) that the Town of Landis is a Municipal Corporation located in Rowan County, North Carolina; (2) that the Town owns and operates its own electric distribution system, purchasing electric power and energy from Duke Power Company and distributing this energy to some 1,350 residential and commercial

customers; (3) that the existing rates of the Town, except rates for certain commercial customers, are less than the existing rates of Roselle; and (4) that, if approved by the Commission, upon consummation of the transaction described in the contract, the Town will provide electric service to the former customers of Roselle at the existing rates of the Town, which will result in decreases of six and one-tenth percent (6.1%) in the charges made to residential customers and five and one-half percent (5.5%) in the charges to commercial customers of Roselle.

In the application, Roselle alleged that the sale of its assets to the Town would result in a more economic, adequate and dependable service for the customers of Roselle and of the Town. Roselle further alleged that the purchase price for the assets represents a fair and proper value thereof and that Roselle's abandonment by way of sale of its assets to the Town would best serve the public convenience and necessity.

Along with its application, Roselle submitted a copy of a feasibility study, performed by Southeastern Consulting Engineers, Inc., Charlotte, North Carolina, concerning the feasibility of the proposed transaction. This study included, inter alia, a discussion of the following items: (1) A financial analysis of the proposed sale, (2) the condition of the existing system; (3) the plans for future system expansion; and (4) recommendations and conclusions regarding the proposed sale. The recommendation of the study was that the Town should purchase the facilities of Roselle. In this regard, the study concluded as follows:

> "In general, the Town's purchase of Roselle Lighting Company would be financially beneficially to the customers of the Town and the consolidation of the two electric distribution systems would be ideal with regard to system operation and future expansion." (P. 9 and 10 of the Feasibility Study)

Attached as exhibits to and in support of the feasibility study performed by Southeastern Consulting Engineers, Inc., were the following exhibits: (1) Balance sheet of Roselle for the fiscal year ending December 31, 1975; (2) Income statement of Roselle for the fiscal year ending December 31, 1975; (3) Comparison of original and replacement values for plant accounts of Roselle; (4) Current electric service rates of Roselle; (5) Current electric service rates of the Town of Landis; (6) Electric consumption and revenues based on current Roselle rates; (7) Electric consumption and revenues based on current Town of Landis rates; (8) Power purchase rate; (9) Power purchase costs for combined purchases based on the current purchase rate; (10) Power purchase costs for Roselle purchase only, based on the current purchase rate; (11) Power purchase costs for Town of Landis purchase only, based on the current purchase rates; and (12) projection of net revenue and additions to net income.

As part of its application, Roselle requested the Commission to approve, either for direct mailing to all Roselle's existing customers or to be published in a large inset in the Salisbury Evening Post, a notice of Roselle's application for the proposed sale of its assets to the Town with such notice to be given so that all interested persons would be given at least three weeks in which to intervene or otherwise file petitions in this proceeding. Along with the application, Roselle attached, for Commission approval, a copy of the proposed public notice.

By Order issued January 19, 1977, the Commission approved the Notice of Application proposed by Roselle and ordered that such notice be issued in accordance to the terms provided in Roselle's application. In accord with the Commission's Order, Notice of the Application was published in the Salisbury Evening Post on January 21, 1977, stating that persons desiring to protest the application should file with the Commission a written protest. No protest of any kind, either oral or written, has been received.

FINDINGS OF FACT

Based upon the foregoing and the entire record before the Commission in this docket, the Commission finds and concludes as follows:

(1) The purchase price, as to be adjusted as provided in the contract, constitutes a fair, reasonable and accurate value of Roselle's plant, equipment and facilities. The other terms and conditions contained in the contract are reasonable and are not in conflict with the public interest.

(2) The Town of Landis is fit, willing, able and qualified to provide electric service to the customers of Roselle.

(3) The approval of the application and transfer of the facilities of Roselle to the Town of Landis makes it appropriate that the service area heretofore assigned to Roselle be now designated as "unassigned".

(4) The approval of the application, the related contract, and the redesignation of the service area heretofore assigned to Roselle are justified by and will serve the public convenience and necessity.

IT IS, THEREFORE, ORDERED as follows:

(1) The application, including the attached contract, be, and the same hereby, is approved.

(2) The service area heretofore assigned to Roselle shall be redesignated as "unassigned".

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of February, 1977.

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

DOCKET NO. E-7, SUB 224

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by DUKE POWER COMPANY for Authority to Issue and Sell 1,500,000 Shares of Its Common Stock Pursuant to Its Stock Purchase-Savings Program for Employees	ORDER GRANTING AUTHORITY TO SELL COMMON STOCK FOR USE IN ITS STOCK PURCHASE-SAVINGS PROGRAM FOR EMPLOYEES

BY THE COMMISSION: On May 26, 1977, Duke Power Company (the Company) filed herein an Application for Authority to issue and sell 1,500,000 additional shares of its common stock, without par value, pursuant to its Stock Purchase-Savings Program for Employees (the Program).

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina. It is duly authorized to engage in the business of generating, transmitting and distributing and selling electric power and energy. It is a public utility under the laws of this State, and in its operations is subject to the jurisdiction of this Commission.

2. With the approval of its shareholders, the Company established in 1959 a Stock Purchase-Savings Program for Employees, pursuant to the authority granted by the Commission on April 20, 1959 in Docket No. E-2, Sub 35, wherein the Company was authorized to issue and sell not exceeding 150,000 shares (later adjusted to 300,000 shares by reason of a two-for-one stock split in 1964). Subsequently in Docket No. E-7, Subs 92, 144 and 184, the Commission authorized the Company to issue and sell 2,700,000 additional shares of its common stock under the Program.

3. As of April 31, 1977, only 343,654 shares of the previously authorized number remain available for issuance and the continuation of the Program requires authorization of the issuance of additional shares. The additional shares of common stock would be issued and sold by the Company to the Trustee of the Program (Wachovia Bank and Trust Company, N.C.) from time to time as and when required, at prices equal to the average daily closing market price of such

stock on the New York Stock Exchange during the calendar month preceding the date of purchase by the Trustee.

4. A current copy of the Program and an explanation of the manner of its operation are included in the Company's Application for authority to issue and sell common stock in this Docket.

5. It is believed that the issuance of the Proposed Stock under the Program will facilitate the accumulation of savings by employees of the Company and its subsidiaries and will provide them with an opportunity to continue to acquire a stock interest in the Company.

6. For the year ended October 31, 1976, about 67% or 7,735 of the 11,534 eligible Duke employees as of November 31, 1975, participated in the Program. A total of 422,735 shares of Duke Common was purchased by the Trustee at a total cost of $8,147,650.

7. The Company proposes that, upon receipt of the consideration for such additional common stock as it is sold to the Trustee under the Program from time to time, said common stock will be credited to the common capital stock account at the total amount of the proceeds derived from the sale.

8. The net proceeds to be received by the Company from the issuance and sale of the common stock will be used for the general corporate purposes of the Company and will provide the Company new permanent capital.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information contained in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed 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) Reasonable 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 an additional 1,500,000 shares of its common stock, without par value, under its Stock Purchase-Savings Program for Employees;

2. To devote the proceeds to be derived from the sale of the common stock for the purposes set forth in the Application; and

3. To file with the Commission a report, in duplicate, setting forth the extent of employee participation in the Program, the number of shares of stock actually sold to the Trustee and the selling price per share of each block of stock sold, such report to be made annually until all common stock herein authorized has been sold.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of June, 1977.

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

DOCKET NO. E-13, SUB 30

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Nantahala Power and Light Company for Authority to Issue $4,000,000 8 7/8% Senior Notes Due 1997	) ORDER GRANTING AUTHORITY) TO ISSUE AND SELL SENIOR) NOTES AND TO AMEND CER-) TAIN SECTIONS OF) SUBORDINATED NOTES

This Cause comes before the Commission upon an application of Nantahala Power and Light Company (hereinafter "Nantahala" or the "Company"), filed under date of June 24, 1977, 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:

To approve a Note Purchase Agreement which Nantahala will enter into with Jefferson Standard Life Insurance Company (hereinafter "Jefferson Standard") and to authorize the issuance, execution and delivery of a note or notes to Jefferson Standard, or order, aggregating $4,000,000 at 8 7/8% annual interest, payable semi-annually, and to approve Amendatory Agreements amending Sections 6 and 8 of Nantahala's Subordinated Notes issued to Aluminum Company of America ("Alcoa") heretofore authorized by this Commission by Order of May 13, 1976 in Docket No. E-13, Sub 28.

FINDINGS OF FACT

1. Nantahala is a North Carolina 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. In Nantahala's general rate case order Docket E-|3, Sub 20, dated October 30, |972, the Commission instructed Nantahala that in future rate cases the Commission would pro-forma a capital structure containing a reasonable amount of debt capital. Nantahala's capital at that time was |00% common equity. Nantahala was receiving all its short-term financing through its parent Alcoa, usually in the form of advances at a rate pegged to what Alcoa could borrow short-term funds from banks plus a small premium.

3. In late |975 Nantahala began its move into long-term debt financing by negotiating a revolving credit agreement with Wachovia Bank & Trust Company to borrow up to $3,000,000 for 25 months at |/4% above prime and |/2% commitment fee on the unused balance. This action was approved by Commission order Docket No. E-|3, Sub 25, dated December |0, |975. At that time, Nantahala advised the Commission that its ultimate capital structure goal was 40% common equity, 5% preferred stock, and 55% long-term debt and, that it was then discussing with the First Boston Corporation the placement of long- or intermediate-term debt.

4. In April |976, Nantahala requested and was granted (Commission Docket No. E-|3, Sub 28) authority to restructure its capitalization through a plan which resulted in converting $8,900,000 of its common equity of $|8,000,000 into seven long-term notes issued to its parent Alcoa. The notes have various maturity dates and a composite annual interest cost of 7.20%. In order to facilitate the issuance of additional debt by Nantahala, four of the notes issued to Alcoa, having an aggregate principal amount of $5,507,000 are subordinated to Alcoa's notes, to other Nantahala debt currently outstanding and to senior debt Nantahala may hereafter issue.

5. Nantahala has, with the assistance of the First Boston Corporation, a commitment from Jefferson Standard to purchase $4,000,000 principal amount of its 8 7/8% senior notes due |997. The major provisions of these notes are: a |0 year non-refunding clause, a 65% dividend payout restriction, a sinking fund requirement that reduces the note's average life to |3 years and a negative pledge covenant that ranks the notes on a parity with senior obligations of the company.

6. Since Nantahala has not had any permanent type debt previously outstanding it has no bond or note rating history. Mr. Oelsner III of First Boston Corporation estimates the rating would presently be no higher than Baa and that the negotiated 8 7/8% annual interest rate is aggressive especially in view of the size of the issue and the fact that they are unsecured.

7. Need for and Use of Proceeds: a. Nantahala's purpose in issuing the proposed note or notes to Jefferson Standard is to acquire funds with which to pay off and discharge its obligations to Wachovia Bank and Trust Company, N.A. under its Revolving Credit Agreement heretofore approved by this Commission by order of December 10, 1975 in Docket No. E-13, Sub 25, and for its general corporate purposes, primarily as a source of externally generated funds for its continuing distribution and transmission construction program and the funds will be so used. As of June 1, 1977 Nantahala owed $2,250,000 to Wachovia Bank and Trust Company, N.A. pursuant to the Revolving Credit Agreement which agreement terminates in January, 1978.

b. Nantahala's projected capital expenditures for the years 1977-1980 and the percentage thereof which it is anticipated must be obtained from external sources are as follows:

1977	$3,615,000	59%
1978	4,360,000	53%
1979	3,724,000	54%
1980	4,200,000	52%

During the period 1977-80 Nantahala estimates that it will need to issue and sell $3,000,000 of notes and $1,300,000 of Preferred Stock in 1979.

c. The need for Nantahala's proposed issuance and sale of $4,000,000 of long-term notes is evidenced by its projected capital expenditures and the amount thereof which must be obtained from external sources as set forth hereinbefore in this order and the further fact that Nantahala's Revolving Credit Agreement with Wachovia Bank and Trust Company, N.A. expires in January, 1978 by which time the indebtedness thereunder must be repaid.

8. Amendatory Agreement: As a condition to its entry into the Note Purchase Agreement, Jefferson Standard requires that Sections 6 and 8 of each of Nantahala's subordinated notes to Alcoa, authorized by this Commission by order of May 13, 1976 in Docket No. E-13, Sub 28, be amended which proposed amendments Nantahala considers immaterial to it. In essence, such proposed amendments would permit the accrual of interest on Nantahala's superior indebtedness (including the proposed notes to Jefferson Standard) subsequent to the filing of petition in bankruptcy of Nantahala and permitting the collection of such interest before any payment on the subordinated indebtedness. The primary effect is to further subordinate Nantahala's subordinated indebtedness to Alcoa.

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 transactions therein proposed are:

(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) Will not impair 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. The Note Purchase Agreement which Nantahala proposes to enter into with Jefferson Standard is hereby approved as is the form of Note attached to that Agreement as Exhibit A. The Note Purchase Agreement is identified as Exhibit 2 to the Application.

2. Nantahala is authorized to borrow $4,000,000 from Jefferson Standard and to execute, issue and deliver its Note or Notes aggregating that amount and bearing interest at the rate of 8 7/8% per annum, payable semi-annually to Jefferson Standard or its order evidencing the amount thus borrowed, said Note or Notes to be in substantially the form as set forth in Exhibit A to the Note Purchase Agreement and to be governed by the provisions thereof.

3. Nantahala is authorized to utilize the funds borrowed from Jefferson Standard for the repayment of any principal and interest due Wachovia Bank and Trust Company, N.A. pursuant to Nantahala's Revolving Credit Agreement with that bank, for capital expenditures primarily for its continuing construction program, and for its general corporate purposes.

4. The proposed Amendatory Agreements between Nantahala and Alcoa together with the revised Sections 6 and 8 of the Subordinated Notes heretofore issued and delivered by Nantahala to Alcoa pursuant to authority granted by this Commission in Docket No. E-13, Sub 28, are approved and Nantahala is authorized to enter into the same.

5. Nantahala shall file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted within a period of thirty (30) days following the completion of the transactions authorized herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of June, 1977.

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

DOCKET NO. G-21, SUB 168
DOCKET NO. G-21, SUB 169

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of North Carolina) ORDER APPROVING
Natural Gas Corporation for an) SURCHARGE TO RECOVER
Adjustment of its Rates and Charges) COST OF EMERGENCY GAS

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 26, 1977, at 9:30 A.M.

BEFORE: Commissioner Barbara A. Simpson, Presiding, and Commissioners Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland and Raper, Attorneys at Law, Box 2129, 222 Maiden Lane, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation (NCNG)

For the Intervenors:

William McCullough, Charles C. Meeker, Sanford, Cannon, Adams & McCullough, Post Office Box 389, Raleigh, North Carolina 27602
For: C. F. Industries, Inc. (CFI)

Henry S. Manning, Jr., Joyner & Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602

K. Jacqueline Bernat, 1501 Alcoa Building, Pittsburgh, Pennsylvania 15219
For: Aluminum Company of America (Alcoa)

Jesse C. Brake, Assistant Attorney General, Post Office Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Robert F. Page, Assistant Commission Attorney, and Paul L. Lassiter, Associate Commission Attorney, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter originated on April 14, 1977, with the filing of an application by North Carolina Natural Gas Corporation (NCNG) seeking to recover the excess cost of 2 Bcf of emergency gas to be purchased and delivered to NCNG during the summer period. In its application, NCNG alleged that the cost of such emergency gas would be $3,280,000 in excess of the CD-2 rate which it paid to Transcontinental Gas Pipe Line Corporation (Transco) for regular flowing pipeline gas supplies. NCNG proposed to recover the $3,280,000 by a surcharge of 46.70¢ per Mcf to all of its rate schedules other than Rate Schedule No. 7, the Large Chemical Plant Service Schedule. Only one customer, C. P. Industries, Inc. (CPI or Farmers Chemical), is served by NCNG on its Rate Schedule No. 7. The requested exemption from the surcharge for Rate Schedule No. 7 was based upon the Commission's Order dated March 31, 1977, in Docket No. G-21, Sub 168. As to all other rate schedules, NCNG proposed to "roll-in" the excess cost of the 2 Bcf of emergency gas purchased for use during the summer period.

By Order issued on April 18, 1977, the Commission suspended the proposed emergency surcharge, pending the filing with the Commission by NCNG of an undertaking to refund any amounts collected under the proposed surcharge as might later be found by the Commission to be unjust and unreasonable, and set the matter for hearing at the time and place first above listed. The Commission further required testimony and exhibits of all parties to be filed on or before May 19, 1977, and required NCNG to publish notice of its application at least two weeks prior to the hearing in newspapers having general circulation in NCNG's service area. The undertaking required by the Commission's Order was filed by NCNG on April 19, 1977.

By Order issued on April 20, 1977, the Commission approved the surcharge filed by NCNG on April 19, 1977, allowed the proposed 46.70¢/Mcf to become effective on bills rendered on and after April 20, 1977, and required that all amounts collected pursuant to such surcharge be subject to refunds pursuant to the undertaking filed by NCNG. New tariffs to implement this new surcharge were filed by NCNG on April 20, 1977. Affidavits of Publication as required by the Commission's Order Setting Hearing in this matter were filed by NCNG on May 13, 1977.

On May 16, 1977, a Petition for Leave to Intervene in this matter was filed by Aluminum Company of America (Alcoa), P.O. Box 576, Badin, North Carolina 28809. Also, on May 16, 1977, a Petition for Leave to Intervene was filed by CP Industries, Inc. On May 18, 1977, a Notice of Intervention

in the matter was filed by the Attorney General of North Carolina pursuant to General Statute 62-20. The Notice of Intervention filed by the Attorney General was recognized by Commission Order issued on May 19, 1977. The Petitions for Leave to Intervene by Alcoa and CFI were recognized by the Commission at the beginning of the hearings in this matter on May 26, 1977.

Prefiled testimony of NCNG's witness Calvin B. Wells was filed with the Commission on May 19, 1977. Prefiled testimony of Commission Staff witness Daniel M. Stone was also filed on May 19, 1977. The matter came on for hearing at the time, place and date first above listed, and the Commission heard testimony from the two witnesses whose testimony had been prefiled and, in addition, considered a written statement which was delivered on the stand by Maynard P. Stickney on behalf of Alcoa.

Company witness Wells testified, in substance, that NCNG needed to purchase 2 Bcf of emergency gas during the 1977 summer period to meet a portion of the requirements of its high priority customers and to make storage injections for the protection of its winter heating market; that the estimated cost of such emergency gas was $3,489,362; that the proposed 46.70¢/Mcf surcharge was calculated by dividing the $3,489,362 excess cost of emergency gas by the 7,472,642 Mcf of gas which NCNG estimated would be billed during the summer period on rates (excluding Rate Schedule No. 7) subject to the surcharge; that without the purchase of the emergency gas NCNG would only have enough CD-2 volumes of gas to serve its priority 8 and 35% of its priority 0.1 requirements, with no service below that priority; that NCNG believed that it was essential for it to obtain an adequate supply of gas to provide service to all its high priority firm commercial and industrial customers; and that, during periods of severe natural gas curtailment when NCNG is required to buy emergency gas to service its essential firm markets, the excess cost of such emergency gas should be shared pro rata on a "rolled-in" basis by all of its customers, including residential customers.

Commission Staff witness Stone testified in substance that there are three possible alternative methods of pricing the emergency gas purchased by NCNG, which are (a) fully "rolled-in," (b) partially "rolled-in," and (c) incremental. He testified that on a fully "rolled-in" basis, excluding only Rate Schedule No. 7 as ordered by the Commission in Docket No. G-21, Sub 168, the calculations made by Company witness Wells of 46.70¢/Mcf were correct; that by using a partially "rolled-in" basis, whereby the emergency surcharge would be paid by all customers other than by Rate Schedule No. 7 and the residential rate schedule, the cost over the summer period would be 51.32¢/Mcf; and that this was the policy followed by the Commission in pricing emergency gas during the preceding winter period of 1976-77, except that sales in Rate Schedule No. 7 were not exempted from the winter emergency gas surcharge. He finally stated that on

an incremental pricing basis, whereby those who took the gas would pay the full excess cost of such gas, the cost would be $1.74/Mcf and that an exhibit detailing such calculations was attached to his testimony as Stone Exhibit No. 1.

Maynard F. Stickney, on behalf of Alcoa, testified in substance that Alcoa supported the concept of fully "rolled-in" pricing of emergency gas supplies as a general principle; that Alcoa did not favor and was opposed to the exemption of CF Industries from such surcharge as provided in the Commission's Order in Docket No. G-21, Sub 168; that CFI, since it received a higher proportion of its contract demand for natural gas service than other industrial customers, should be expected, on a value of service basis, to pay more and not less for such gas than the other industrial customers; that the exclusion of CFI from such emergency gas surcharge was arbitrary and discriminatory; that such exclusion was inconsistent with prior orders and decisions of the Commission; and that the excess cost of emergency gas, whether summer or winter, should be absorbed by the entire community of natural gas customers, industrial, commercial and residential, with preferential treatment for no one customer or class of customers.

During the course of these hearings, it was announced that Transco had added back to NCNG's previously announced summer CD-2 entitlement volumes approximately 967,000 dekatherms of additional gas. After accounting for Company use, lost and unaccounted for volumes and 200,000 Mcf to be injected into storage for use during the winter, approximately 745,259 Mcf would be available for sale to customers during the summer period. According to the Commission's priority schedule for curtailments, most, if not all, of these volumes would be allocated to priority 0.1, in which CF Industries is NCNG's only customer.

On June 3, 1977, following the conclusion of hearings in Docket No. G-21, Sub 169, CFI filed a Motion in Docket No. G-21, Sub 168. The Motion took notice of the Commission's prior Order in said docket and noted that the volumes of flowing CD-2 gas allocated to CFI under said Order would run out on or approximately June 14, 1977. The Motion requested the Commission to determine which of the restored volumes made to NCNG by Transco as described in the hearing herein would be made available to CFI and the approximate price of such volumes.

Thereafter, on June 8, 1977, a response to the Motion by CF Industries was filed by the Attorney General on behalf of the using and consuming public. Such Motion stated that the Attorney General was opposed to any further exemption for CF Industries on the restored volumes made by Transco to NCNG and that the Commission should adopt, as its pricing policy in this docket, the policy followed during the winter period of 1976-77, which was to "roll-in" the excess cost of the emergency purchases to all classes of customers other than residential. The Attorney General's Motion was filed in

both Docket No. G-21, Sub 168 and Docket No. G-21, Sub 169. In addition, the Attorney General filed a Notice of Intervention in Docket No. G-21, Sub 168, which notice was recognized by Commission Order issued on June 9, 1977.

Based upon the foregoing, the testimony and exhibits offered at the hearing, and the Commission's entire files and records in this matter, the Commission now makes the following

FINDINGS OF FACT

1. That North Carolina Natural Gas Corporation is a corporation organized and licensed to do business within the State of North Carolina, with its principal office and place of business in Fayetteville, North Carolina.

2. That NCNG is a public utility as defined by G. S. 62-3(23)a.1. and, as such, is subject to the jurisdiction and regulation of the North Carolina Utilities Commission as provided by the Public Utilities Act.

3. That NCNG is lawfully before this Commission seeking an adjustment in its rates and charges to recover the cost of emergency gas purchased for delivery during the summer entitlement season of 1977.

4. That NCNG needs to acquire at least 2 Bcf of emergency gas if it is to supply its high priority R-M commercial, industrial and residential customers for the summer period.

5. That on June 1, 1977, Transco submitted a request to the Administrator of the Emergency Natural Gas Act of 1977 asking for modification of his April 4, 1977, Order regarding transportation rates. Transco requested the Administrator to approve a reduction in transportation rates for emergency gas in Zone 2 (NCNG's territory) from 45.8¢ per dekatherm to 29.8¢ per dekatherm effective as of April 1, 1977.

6. That an Mcf is the equivalent of 1.025 dekatherms.

7. That by using a transportation charge of 29.8¢/dekatherm as contrasted with the previously estimated transportation rate of 45.8¢ per dekatherm contained in the testimony and exhibits of NCNG witness Wells, the excess cost of the emergency gas to be purchased and delivered to NCNG this summer is $2,940,000 above Transco's CD-2 rate, including gross receipts tax, as contrasted with $3,489,362 estimated in the exhibit of Company witness Wells.

8. That on May 24, 1977, Transco advised NCNG that the CD-2 allocation for NCNG would be increased from 10,017 dekatherms per day to 10,984 dekatherms per day for the summer, amounting to a total increase of 967,000 dekatherms (945,259 Mcf) for the balance of the summer.

9. That out of this 945,259 Mcf, NCNG has determined to increase its WSS temporary storage service by 195,892 Mcf.

10. That CF Industries has been granted an exemption from the previously existing surcharge of 46.7¢/Mcf for emergency gas for the summer period up to an amount of 2,039,747 Mcf by Commission Order dated March 31, 1977, in Docket No. G-21, Sub 168. Such exempted volumes are due to be used up by CFI on or about June 14, 1977.

11. That under the Utilities Commission's priority system for allocating gas to end use customers, CFI would be entitled, during the balance of the summer period, to an additional 736,251 Mcf of the increase in flowing gas supplies restored by Transco to NCNG. The balance of 195,899 Mcf of restored volumes is required by NCNG for high priority winter storage and to adjust for Company use and lost and unaccounted for volumes.

12. That during the winter of 1976-77, NCNG overcollected $278,699 from the emergency gas surcharge authorized by the Commission in Docket No. G-21, Sub 160.

13. That NCNG's recovery from the present summer emergency gas rate of 46.7¢/Mcf which became effective on April 20, 1977, under bond, until June 15, 1977, will be approximately $928,898.

14. That all customers should share equally, over the remainder of the summer, the excess cost of such emergency gas, since a portion of the gas is to be used for high priority R-M customers during the balance of the summer and the rest of such gas will be primarily used for winter peaking storage services.

15. That in order to collect the balance of the $2,940,000 cost, including transportation charges, of emergency gas during the remainder of the summer period, a surcharge of 29.77¢/Mcf on a "rolled-in" basis to all customers will be required.

16. That a calculation of the 29.77¢/Mcf surcharge to volumes available for sale during the remainder of the summer period is attached hereto as Appendix A and incorporated herein by reference.

Based upon the foregoing Findings of Fact the Commission now reaches the following

CONCLUSIONS

1. That the terms of NCNG's public utility franchise require it to furnish and provide natural gas service to its high priority residential, commercial and industrial customers. Without the purchase of the proposed emergency gas, NCNG would not be able to serve customers below priority 0.1. Therefore, the Commission concludes that NCNG

should be authorized to purchase up to 2 Bcf of emergency gas for the summer period of 1977 to enable it to furnish adequate service to all high priority (NCUC priorities R-M) customers and a higher percent of volumes to CFI than would otherwise be available.

2. That since the original application in this matter was filed, two major changes have occurred which will result in a reduction of the amount per Mcf of surcharge required to be collected herein. The first of these is the addition of CD-2 volumes restored by Transco to NCNG for the remainder of the summer. The second is the reduction by Transco of the transportation charge from 45.8¢ per dekatherm to 29.8¢ per dekatherm. The Commission concludes that these changes should be reflected in the calculation of the approved amount of surcharge for emergency gas volumes during the balance of the summer period of 1977.

3. That NCNG, based upon its accounting report to the Commission in Docket No. G-21, Sub 160, has recovered an excess amount of $278,699 from its winter period emergency gas surcharge, during which similar high priority customers were served. The customers who will be served by NCNG's regular pipeline supplies and the summer emergency gas volumes are, essentially, the same classes of customers who were served during the winter period of 1976-77. The Commission concludes that the excess of $278,699 recovered by NCNG during the winter period should be applied against the excess cost of emergency gas to be recovered during the summer period.

4. That with the addition of restored CD-2 volumes to NCNG by Transco, CF Industries is entitled to service from NCNG in the amount of 2,775,998 Mcf of gas for the entire summer period. However, all volumes in excess of the 2,039,747 Mcf authorized for delivery to CFI by NCNG in Docket No. G-21, Sub 168 should be required to bear the increased emergency gas rate authorized herein.

5. That giving effect to the foregoing Findings of Fact and Conclusions, the Commission finally concludes that the surcharge presently in effect for NCNG as allowed on April 20, 1977, should be reduced from 46.7¢/Mcf to 29.8¢/Mcf as shown on Appendix A attached hereto. In addition, Rate Schedule No. 7 (CFI), which presently bears no portion of the surcharge, should be increased by a surcharge of 29.8¢/Mcf. In this manner all customers who use the gas will share equally in the excess cost of the emergency gas to be delivered to NCNG for the balance of the summer period.

IT IS, THEREFORE, ORDERED as follows:

1. That NCNG be, and is hereby, authorized to purchase up to 2 Bcf of emergency gas for service to high priority customers during the summer period of 1977.

2. That CF Industries, Inc., is entitled to a total delivery from NCNG of 2,775,998 Mcf during the summer period. However, only the first 2,039,747 Mcf, as approved in Docket No. G-21, Sub 168, shall be exempt from the surcharge approved herein.

3. That NCNG shall file tariffs reflecting a total emergency purchase surcharge of 29.77¢ per Mcf (or a reduction of 16.93¢ per Mcf less than the rates presently effective) for all rate schedules except Rate Schedule No. 7.

4. That NCNG shall file a new tariff increasing Rate Schedule No. 7 by a surcharge of 29.77¢ per Mcf on all volumes sold under this rate schedule during the summer period in excess of 2,039,747 Mcf. Such tariff shall become effective when such volume has been delivered to CFI.

5. That the new tariffs referred to in ordering paragraph 3 above shall become effective on all bills rendered on and after June 15, 1977.

6. That within 30 days after the end of the summer period, NCNG shall file with the Commission an accounting of all emergency gas volumes delivered and sold pursuant to this Order, showing the excess or deficiency in recovery of the excess cost of such gas.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of June, 1977.

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

Note: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. G-21, SUB 168
DOCKET NO. G-21, SUB 169

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges	) AMENDMENT TO ORDER APPROVING) SURCHARGE TO RECOVER COST OF) EMERGENCY GAS)

BY THE COMMISSION: The Commission in its Order dated June 14, 1977 in this Docket authorized North Carolina Natural Gas Company to purchase up to 2 BCF of Emergency Gas for the summer of 1977 for high priority customers. The Commission Order further provided that CF Industries, Inc. is entitled to a total delivery from North Carolina Natural of 2,775,998 MCF during the summer period. However, only the first 2,039,747 MCF as approved in Docket No. G-21, Sub 168 is

exempted from the surcharge as approved in Docket No. G-21, Sub 169. The Commission Order further authorized North Carolina Natural to file new tariffs increasing Rate Schedule No. 7 by a surcharge of 29.77 ¢ per MCF on all volumes sold under this Rate Schedule during the summer in excess of 2,039,747; Such tariffs to become effective when such volumes have been delivered. By motion filed by CF Industries on June 22, 1977, CF Industries notified the North Carolina Utilities Commission that Transco has recently announced a second restoration during the summer of 1977 to North Carolina Natural of regular flowing CD gas of approximately 579,745 MCF which will be available for sale by North Carolina Natural. The motion alleges that CF Industries is entitled to all the additional restored volumes under the priority system adopted by this Commission in Docket No. G-100, Sub 24 as modified by Orders previously entered in this Docket and in Docket G-21, Sub 169. The Commission is further in receipt of a report from Transco dated July 5, 1977 in which it advises its customers of the additional restoration of the summer period. North Carolina Natural Gas Corporation recently revised entitlement is 11,588 Mdt for the summer period.

The Commission is of the opinion, consistent with its previous Orders in these Dockets, that CF Industries is entitled to the additional 579,745 MCF of gas under the North Carolina Utilities Priority System. The Commission is further of the opinion that any adjustment in rates for these increased volumes by North Carolina Natural at this time would have a diminutive effect on customers, and for that reason that any further adjustments to rates should be deferred until the next true-up made for the cost of Emergency purchases.

IT IS, THEREFORE, ORDERED as follows:

1. That CF Industries, Inc. is entitled to a total delivery of 3,355,743 MCF which includes volumes under the first and second restoration by Transco during the summer period. However, only the first 2,039,747 MCF as approved in Docket No. G-21, Sub 168 shall be exempt from the surcharge approved in the Commission's Order dated June 14, 1977 in this Docket.

2. That CF Industries motion to adjust rates for this additional restoration at this time being diminutive is hereby denied.

3. In all other respects the Commission's Order in this Docket dated June 14, 1977 shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of July, 1977.

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

DOCKET NO. G-21, SUB 168
DOCKET NO. G-21, SUB 169

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges	) FURTHER ORDER SETTING) FORTH ENTITLEMENT TO) RESTORED VOLUMES AND) APPROVING ADJUSTED) SURCHARGE

BY THE COMMISSION: In its Order issued June 14, 1977 in this docket the Commission authorized North Carolina Natural Gas Corporation (NCNG) to purchase up to 2 BCF of Emergency Gas for the summer of 1977 for high priority customers and to recover the excess cost through a surcharge on all rate schedules. The Commission's Order further provided that CF Industries, Inc. (CFI), NCNG's largest customer, is entitled to a total delivery from NCNG of 2,775,998 MCF during the summer period, the first 2,039,747 MCF of which is exempt by order issued March 31, 1977, from the surcharge. The Order further authorized NCNG to file new tariffs increasing Rate Schedule No. 7 by a surcharge of 29.77¢ per MCF on all volumes sold under this Rate Schedule during the summer in excess of 2,039,747. By motion filed on June 22, 1977, CFI notified the Commission that Transco had announced a second restoration to NCNG of approximately 579,745 MCF of CD gas which will be available for sale by NCNG. The motion alleged that CFI was entitled to all of the additional restored volumes under the priority system adopted by this Commission in Docket No. G-100, Sub 24 as modified by Orders previously entered in this Docket and in Docket G-21, Sub 169.

Being of the opinion, consistent with its previous Orders in these dockets, that CFI was entitled to the additional 579,745 MCF of gas under the priority system, the Commission issued an order on July 12, 1977, which provided that CFI was entitled to a total delivery of 3,355,743 Mcf during the summer period, the first 2,039,747 Mcf of which were exempt from the summer emergency gas surcharge.

By motion filed on August 3, 1977, CFI notified the Commission that Transco had announced a third restoration to NCNG of approximately 812,028 Mcf of CD gas which will be available for sale by NCNG. The motion alleges that CFI is entitled to all of the additional restored volumes under the priority system. On August 8, 1977, NCNG filed a response to CFI's motion asking that it be allowed to file a reduced emergency gas surcharge (from 29.77¢ per Mcf to 24.33¢ per Mcf) to reflect the additional volumes and to account for the effect of these volumes on its curtailment tracking rate in its "true up" filing for the year ending October 31, 1977.

The Commission is of the opinion that CFI is entitled to the additional 8|2,028 Mcf of gas under the priority system, making a total summer period entitlement of 4,|67,775 Mcf of which only the first 2,039,747 Mcf should be exempt from NCNG's emergency gas surcharge. The Commission is of the further opinion that NCNG should file revised tariffs reflecting the effect of the additional volumes on its emergency gas surcharge. The effect of such volumes on NCNG's curtailment tracking rate (a reduction of 2.54¢ per Mcf to Priority R rates and a reduction of 2.22¢ to all other rates) should be taken into account in the regular CTR "true up" and not through an interim adjustment.

IT IS, THEREFORE, ORDERED as follows:

1. That CF Industries, Inc., is hereby entitled to a total delivery of 4,|67,775 Mcf, which includes volumes under the three restorations by Transco, during the |977 summer period. All except the first 2,039,747 Mcf of this entitlement period shall be subject to the approved emergency gas surcharge.

2. That North Carolina Natural Gas Corporation shall file revised tariffs, effective on one day's notice, reflecting a reduction in the summer emergency gas surcharge from 29.77¢ per Mcf to 24.33¢ per Mcf.

3. That North Carolina Natural Gas Corporation shall not adjust its curtailment tracking rate (CTR) for the effect of additional volumes but shall "true up" its CTR in the filing to be based on the twelve months ending October 3|, |977.

ISSUED BY ORDER OF THE COMMISSION.
This the |5th day of August, |977.

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

DOCKET NO. G-2|, SUB |68
DOCKET NO. G-2|, SUB |69

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges	)) SECOND FURTHER ORDER SETTING) FORTH ENTITLEMENT TO) RESTORED VOLUMES AND) APPROVING ADJUSTED SURCHARGE

BY THE COMMISSION: In its Order issued June |4, |977 in this docket the Commission authorized North Carolina Natural Gas Corporation (NCNG) to purchase up to 2 BCF of Emergency Gas for the summer of |977 for high priority customers and to recover the excess cost through a surcharge on all rate schedules. The Commission's Order further provided that CF Industries, Inc. (CFI), NCNG's largest customer, is

entitled to a total delivery from NCNG of 2,775,998 MCF during the summer period, the first 2,039,747 MCF of which is exempt by order issued March 31, 1977, from the surcharge. The Order further authorized NCNG to file new tariffs increasing Rate Schedule No. 7 by a surcharge of 29.77¢ per MCF on all volumes sold under this Rate Schedule during the summer in excess of 2,039,747. By motion filed on June 22, 1977, CFI notified the Commission that Transco had announced a second restoration to NCNG of approximately 579,745 MCF of CD gas which will be available for sale by NCNG. The motion alleged that CFI was entitled to all of the additional restored volumes under the priority system adopted by this Commission in Docket No. G-100, Sub 24 as modified by Orders previously entered in this Docket and in Docket G-21, Sub 169.

Being of the opinion, consistent with its previous Orders in these dockets, that CFI was entitled to the additional 579,745 MCF of gas under the priority system, the Commission issued an order on July 12, 1977, which provided that CFI was entitled to a total delivery of 3,355,743 MCF during the summer period, the first 2,039,747 MCF of which were exempt from the summer emergency surcharge.

By Motion filed on August 25, 1977, CFI notified the Commission that Transco had announced a fourth restoration of volumes to NCNG, approximately 812,028 MCF of CD gas which would be available for sale by NCNG. The motion alleges that CFI is entitled to all of the additional restored volumes under the existing curtailment priority system. On August 30, 1977, NCNG filed a response to CFI's motion asking that it be allowed to file a reduced emergency gas surcharge (from 24.33¢ per MCF to 18.66¢ per MCF effective for billings on and after September 10, 1977) to reflect the additional volumes and to account for the effect of these volumes on its curtailment tracking rate in its "true up" filing for the year ending October 31, 1977.

The Commission is of the opinion that CFI is entitled to the additional 812,028 MCF under the priority system, making a total summer period entitlement of 4,979,803 MCF of which only the first 2,039,747 MCF should be exempt from NCNG's emergency gas surcharge. The Commission is of the further opinion that NCNG should file revised tariffs reflecting the effect of the additional volumes on its emergency gas surcharge. The effect of such volumes in NCNG's curtailment tracking rate should be taken into account in the regular CTR "true up" and not through an interim adjustment.

IT IS, THEREFORE, ORDERED as follows:

1. That CF Industries, Inc., is hereby entitled to a total delivery of 4,979,803 MCF, which includes volumes under the four restorations by Transco, during the 1977 summer period. All except the first 2,039,747 MCF of this entitlement period shall be subject to the approved emergency gas surcharge.

2. That North Carolina Natural Gas Corporation shall file revised tariffs, effective on one day's notice, reflecting a reduction in the summer emergency gas surcharge from 24.33¢ per MCF to |8.66¢ per MCF for bills rendered on and after September |0, |977.

3. That North Carolina Natural Gas Corporation shall not adjust its curtailment tracking rate (CTR) for the effect of additional volumes but shall "true up" its CTR in the filing to be based on the twelve months ending October 3|, |977.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of September, |977.

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

DOCKET NO. G-2|, SUB |68
DOCKET NO. G-2|, SUB |69

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges	) THIRD FURTHER ORDER) SETTING FORTH ENTITLEMENT) TO RESTORED VOLUMES)

BY THE COMMISSION: On October |0, |977, CF Industries, Inc., (CFI) filed a Motion in Docket No. G-2|, Sub |68, requesting the Commission to issue an order setting forth CFI's entitlement to 82,9|4 MCF of flowing CD gas, such gas being the fifth restoration of gas from Transcontinental Gas Pipeline Corporation, (Transco) to North Carolina Natural Gas Corporation (NCNG). In support of said Motion, CFI shows that it is entitled to the restored volumes under the existing priority schedule of the Commission. CFI further requests that NCNG be allowed to supply the balance of its priority 0.| requirements for the remainder of the |977 summer gas season, showing to the Commission that NCNG has informed CFI that NCNG's higher priority markets have not used the earlier projected volumes of gas allocated under the priority system and will not require their projected volumes through the end of the summer season.

Upon consideration of said Motion, and the entire record in these dockets, the Commission is of the opinion and so concludes that CFI is entitled to 82,9|4 MCF of the additional restored volumes, and further, that NCNG should be allowed to supply the balance of CFI's priority 0.| requirements for the remainder of the |977 summer season as long as higher priority customers are also fully served. The Commission further concludes that all such volumes sold to CFI should be subject to NCNG's emergency gas surcharge but that no adjustment should be made at this time for the

effect of the additional restored volumes on the amount of the surcharge.

IT IS, THEREFORE, ORDERED as follows:

1. That CFI is hereby entitled to 82,914 MCF of gas, the fifth restoration of flowing CD gas to NCNG from Transco, during the 1977 summer entitlement period.

2. That, in addition to the restored volumes in Paragraph 1 above, NCNG is hereby allowed to serve the balance of CFI's priority 0.1 requirements for the remainder of the 1977 summer period, provided that the requirements of customers in higher priorities are met first.

3. That all of the volumes allocated to CFI in Paragraphs 1 and 2 above shall be subject to NCNG's summer emergency gas surcharge.

4. That no adjustment shall be made at this time to NCNG's summer emergency gas surcharge for the effect of the additional restored volumes.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of October, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

DOCKET NO. G-3, SUB 78

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Pennsylvania and Southern Gas) ORDER
Company, North Carolina Gas Service Division,) APPROVING
for an Adjustment of its Rates and Charges) RATE

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina on June 23, 1977 at 10:20 a.m.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; Commissioners Ben E. Roney, Barbara A. Simpson, Robert K. Koger, Leigh H. Hammond, and Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

T. Carlton Younger, Jr.,
Brooks, Pierce, McLendon, Humphrey & Leonard,
1400 Wachovia Building,
Greensboro, North Carolina

For the Using and Consuming Public

Jesse C. Brake,
Assistant Attorney General,
N. C. Department of Justice,
P. O. Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike,
Associate Commission Attorney,
N. C. Utilities Commission,
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On 12 May 1977 Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, (P&S) filed a revised application pursuant to G.S. 62-133(f) and Commission Rule R1-17(g) seeking authority to increase all of its rate schedules by $1.2967 per mcf in order to recover the excess cost of approximately 450,000 mcf of emergency gas for the 1977 summer period for which P&S has contracted with United Cities Gas Company. P&S stated in its application that based upon supply information given by its principal supplier, Transcontinental Gas Pipe Line Corporation, and the curtailment plans of the Federal Power Commission (FPC), P&S would not otherwise receive sufficient supplies for the period.

P&S requested the Commission to waive the 30 days' notice requirement and allow the proposed surcharge to become effective on 30 April 1977. Accompanying the revised application was an Undertaking by P&S to refund such amounts collected under the increased rates as may later be found unjust and unreasonable by the Commission.

By order issued 12 May 1977 the Commission allowed the increase in rates proposed by P&S to become effective subject to Undertaking and set the matter for hearing on 21 June 1977. The Commission, on its own motion, issued an Order continuing the hearing until 23 June 1977. Notice of the hearing was published in the Greensboro Daily News on 25 May 1977.

P&S presented the testimony of Marshall W. Campbell, Assistant Corporate Secretary of Pennsylvania and Southern Gas Company and Office Manager of the North Carolina Gas Service Division. Mr. Campbell's testimony tended to show the following: that in early February 1977 P&S contracted with United Cities Gas Company for the purchase of 450,000 mcf of emergency to serve its customers in Priorities R through M during the 1977 summer period and fill its storage for the winter period 1977-78; that without emergency purchase gas P&S would be unable to meet the requirements of its R.2 customers during the 1977-78 winter period under 20% colder than normal weather conditions; that owing to the fact that weather in February and March 1977 was warmer than normal, P&S did not deplete its storage as anticipated and

therefore has been able to serve through Priority J during the summer period; that P&S has not attempted to obtain more storage capacity since it expects to be able to serve partially through Priority M in 20% colder than normal winter conditions from existing storage and flowing gas supplies; that P&S's only Priority M customer, Pine Hall Brick, is purchasing 45,000 mcf of gas a month from P&S; that Pine Hall is considering purchasing gas through FPC Order No. 533 for the coming winter; and that P&S does not plan to purchase emergency gas during the winter period 1977-78.

The Commission Staff offered the testimony of Daniel M. Stone, Utilities Engineer in the Gas Section of the Engineering Division. Mr. Stone presented an exhibit showing the amount of the surcharge necessary to recover the excess cost of 450,000 mcf of emergency gas during the summer period under three different pricing policies: fully rolled-in, $1.2876 per mcf; rolled-in to all customers except residential customers, $1.4303 per mcf plus $.1608 per mcf to all customers to insure that nonresidential customers receive the full benefit of additional volumes through the curtailment tracking rate (CTR); and incremental, $1.82 per mcf. The difference between the $1.2967 per mcf rate filed by P&S and the $1.2876 per mcf rate shown in Mr. Stone's exhibit arises from a restoration of CD volumes from Transco subsequent in the month of May. Mr. Stone also presented an exhibit, prepared in conjunction with Mr. Campbell, showing the estimated surcharge required to recover the remaining unrecovered mcf of excess cost of emergency gas during the remainder of the summer period and the 1977-78 winter period under two pricing policies: fully rolled in, $.3614 per mcf; rolled-in to all customers except residentials, $.4738 plus $.15 per mcf CTR benefit. Mr. Stone's second exhibit also showed the recovery of excess cost of emergency gas by class of customer under three pricing policies: fully rolled-in from 1 July 1977 through 31 March 1978 - residential, $308,997, nonresidential, $249,034; partially rolled in from 1 July 1977 through 31 March 1978 - residential CTR benefit $128,250, nonresidential surcharge $326,487, nonresidential CTR benefit $103,362; fully rolled during summer period - residential, $149,120, nonresidential $408,645.

Based on the foregoing, the verified application, and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. That Pennsylvania and Southern Gas Company, North Carolina Gas Service Division (P&S) the Applicant, in this proceeding, is a corporation organized under the laws of the State of Delaware and duly domesticated and conducting business in the State of North Carolina, having offices in Reidsville, North Carolina.

2. That P & S is a public utility gas distribution company as defined by G.S. 62-3(23) and as such is subject to the jurisdiction of this Commission.

3. That P & S has made application, pursuant to G.S. 62-133(b) and Rule R1-17(g) of the Commission's Rules and Regulations seeking to recover through a surcharge of $1.2967 per mcf the excess cost, estimated to be approximately $817,106 including gross receipts taxes of 450,000 mcf of emergency gas purchases during the 1977 summer period.

4. That by order issued 12 May 1977 the Commission allowed P & S to collect the $1.2967 per mcf on all rate schedules, effective on bills rendered on and after 30 April 1977, subject to Undertaking to refund and pending final decision in the matter.

5. That at the time P & S contracted for the purchase of emergency gas, it reasonably appeared to the company that 450,000 mcf would be required in order to enable the company to serve its firm market during the summer period and fill its storage in preparation for the coming winter.

6. That without the purchase of emergency gas during the 1977 summer period P & S will have insufficient storage gas to meet the full requirement of its residential customers if the 1977-78 winter period is 20% colder than normal.

7. That, because of unusually warm weather in the latter part of February and March, P & S entered the summer period with its storage facilities less depleted than had been anticipated and therefore with the additional volumes of gas has been able currently to serve its customers in priorities, J, K and L in addition to its firm market while meeting its storage requirements for the 1977-78 winter period.

8. That P & S does not plan to purchase any emergency gas during the 1977-78 winter period in order to serve its firm market.

9. That the purchase of 450,000 mcf will benefit all customers receiving gas from P & S.

10. That if P & S is not allowed to recover the excess cost of 450,000 mcf of emergency gas during the summer period, for which the company has already paid, the company will incur additional carrying charges which it will seek to recover.

11. That the emergency purchase surcharge proposed by P & S and approved herein is not designed to increase the company's rate of return over that previously allowed but solely to produce revenues sufficient to offset the increased cost of purchased gas and related gross receipts tax.

Whereupon, the Commission reaches the following

CONCLUSIONS

All of the evidence in this proceeding shows that P & S's regular flowing gas supplies are insufficient to enable the company to serve its residential, commercial and firm industrial customers during the summer period which meeting its storage requirements for the coming winter. P & S therefore has undertaken to purchase emergency gas for the summer period.

In early February when P & S contracted for the purchase of 450,000 mcf of emergency gas for the summer period, the company could not have been expected to foresee that these additional volumes would enable it to serve any but its firm market. The Commission recognizes that the uncertainties of supply and weather conditions are magnified in the case of a small company such as P & S. Under the existing circumstances, the Commission is unwilling to conclude that P & S has acted imprudently. The Commission is of the opinion, however, that P & S, having purchased 450,000 mcf of emergency gas, should make every effort to obtain additional storage capacity in order to preserve its gas supply for customers through priority M during the coming winter.

It is clear that the emergency gas in question will benefit all customers of P & S both now and in the coming winter. The Commission, therefore, is of the opinion that P & S should be allowed to recover the excess cost on a fully rolled-in basis. To prolong the recovery of such cost would be to impose a needless burden on the company. The Commission, therefore, concludes that this cost should be recovered during the summer period.

IT IS, THEREFORE, ORDERED as follows:

1. That the revised rate schedules filed by Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, on 12 May 1977 in the above docket are hereby approved and the Undertaking to refund also filed that date is hereby discharged.

2. That within 30 days after the end of the summer period Pennsylvania and Southern shall file with the Commission an accounting of all emergency gas volumes delivered and sold pursuant to this order, showing the surplus or deficiency in recovery of the excess cost of such gas.

ISSUED BY ORDER OF THE COMMISSION.
This 30th day of June, 1977.

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

DOCKET NO. G-3, SUB 79

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) Petition to Adjust Rates to Recover Uncollected Excess Emergency Gas Cost for Winter 1976-77	) ORDER) APPROVING) RATES)

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 25, 1977

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Ben E. Roney, W. Lester Teal, Jr., Barbara A. Simpson, S. Lindsay Tate, and Leigh H. Hammond

APPEARANCES:

For the Applicant:

T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

For the Intervenors:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, Dobbs Building, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Edward B. Hipp, Commission Attorney, and Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On May 12, 1977, Pennsylvania & Southern Gas Company, North Carolina Gas Service Division (hereinafter referred to as Penn. and Southern or the Company) filed a revised Petition seeking authority to adjust and increase its rates and charges in order to recover the unrecovered excess cost of emergency gas purchased during the 1976-77 winter. By Order of this Commission in Docket No. G-3, Sub 72, Pennsylvania and Southern was directed to purchase 151,000 Mcf of emergency gas for the winter heating season. Due to the colder than normal winter it was actually necessary for the Company to purchase 204,321 Mcf of emergency gas. The total excess cost of the emergency gas purchased for the winter heating period was $302,726 including gross receipts tax. Penn. and

Southern has previously recovered $194,322 of such increase through the winter emergency purchase surcharge on all nonresidential rate schedules approved by Order issued January 20, 1977, in Docket No. G-3, Sub 72. Penn. and Southern has further recovered an additional $73,449 due to the adjustment of the curtailment tracking rate for the winter heating season. By this application, the Company seeks to recover the remaining $34,955 of the excess cost of emergency gas purchases through an increase in rates to all rate schedules, excluding residential, of $.0751 per Mcf effective on all bills rendered on and after April 30, 1977.

In its application, Penn. and Southern requested the Commission to waive the thirty days' notice requirement and allow the proposed surcharge to become effective on all bills rendered on and after April 30, 1977. Accompanying the application was an Undertaking by Penn. and Southern to refund such amounts collected under the increased rates as might later be found unjust and unreasonable by the Commission.

By Order issued on May 12, 1977, the Commission allowed the proposed rate to become effective on all bills rendered on and after April 30, 1977, subject to the Undertaking by Penn. and Southern to refund such amounts collected as might later be found unjust and unreasonable. The Order set the application for hearing on Wednesday, May 25, 1977, at 9:30 a.m.

The public hearing was held as scheduled on May 25, 1977, concurrent with the hearing in the related Docket No. G-100, Sub 29. The Applicant was present and offered the testimony of Marshall W. Campbell. The Attorney General intervened and was represented as shown above.

Based upon the entire evidence of record, 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 Petition in this docket is properly before the Commission pursuant to the Commission's Order in Docket No. G-100, Sub 29, implementing policy for pricing of the excess cost of emergency gas purchases.

3. That by the Petition in this docket, Penn. and Southern is seeking to recover $34,955, as the unrecovered excess cost of emergency gas purchased during the 1976-77 winter heating season.

4. That the total excess cost of emergency gas purchased by Penn. and Southern for the winter heating period was

$302,726 including gross receipts tax and that Penn. and Southern has previously recovered $194,322 of such increase through the winter emergency purchase surcharge and has further recovered an additional $73,449 due to the adjustment of the curtailment tracking rate for the winter heating period leaving a balance of $34,955 as the unrecovered portion of the excess cost of emergency gas.

5. That an increase in rates and charges on all rate classification, excluding residential, of $.0751 per Mcf will allow Penn. & Southern to recover its unrecovered excess cost of emergency gas net of gross receipts tax by October 31, 1977.

CONCLUSIONS

The Commission in its Order in Docket No. G-3, Sub 72, ordered Penn. and Southern to purchase 151,000 Mcf for the winter heating season. The evidence in this hearing was that it was actually necessary for Penn. and Southern to purchase 204,321 Mcf of emergency gas to meet the needs of its customers due to the colder than normal winter. The total excess cost of the emergency gas purchased for the winter heating period was $302,726 including gross receipts tax. Penn. and Southern has previously recovered $194,322 of such increase through the winter emergency purchase surcharge on all nonresidential rate schedules and has further recovered an additional $73,449 due to the adjustment of the CTA rate for the winter season. This leaves remaining $34,955 as the excess cost of emergency gas which the Commission finds and concludes that the Company should be entitled to recover.

The Commission, by Order issued on December 8, 1976, directed that the cost of emergency purchases for the 1976-77 winter heating season should not be placed on the residential customers. The Commission concludes, therefore, that the $34,955 excess cost of emergency gas purchased by Penn. and Southern should be recovered through an increase in rates to all schedules excluding residentials. The Commission, therefore, concludes that Penn. and Southern should be allowed to recover the $34,955 excess cost of emergency gas through an increase in rates to all rate schedules, excluding residentials, of $.0751 per Mcf effective on all bills rendered on and after April 30, 1977, and that this increase is found to be just and reasonable.

IT IS, THEREFORE, ORDERED as follows:

1. That the revised rate schedule filed by Penn. & Southern on May 12, 1977, in the above docket is hereby approved and the Undertaking for Refund filed concurrently therewith is hereby discharged.

2. That upon the collection of $34,955 of revenues through the surcharge of $.0751/MCF as authorized herein

that Penn. and Southern shall file revised tariffs eliminating this surcharge.

3. That Penn. and Southern shall file a statement accounting for all collections received under this authorization and equating this amount to the excess cost of EP gas for the winter period of $34,955. This report due thirty (30) days after the $34,955 has been recovered.

ISSUED BY ORDER OF THE COMMISSION.
This the 29th day of June, 1977.

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

DOCKET NO. G-5, SUB 130

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Public Service	) ORDER PRESCRIBING METHOD
Company of North Carolina, Inc.,	) OF RECOVERY OF EXCESS
for an Adjustment of its Rates	) COST OF EMERGENCY
and Charges	) NATURAL GAS

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina on May 24, 1977, at 9:30 a.m.

BEFORE: Chairman Tenney I. Deane, Jr., Commissioners Ben E. Roney, W. Lester Teal, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

F. Kent Burns, and James M. Day, Boyce, Mitchell, Burns and Smith, P. O. Box 1406, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jesse C. Brake, Associate Attorney General, N. C. Attorney General's Office, P. O. Box 629, Raleigh, North Carolina

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, N. C. Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On 24 March 1977 Public Service Company of North Carolina, Inc. (Public Service) filed an Application, pursuant to G.S. 62-133(b) and Commission Rule

R|-|7(g), seeking authority to adjust and increase its rates and charges in order to recover the excess cost of emergency gas purchases during the summer of |977. In its Application Public Service proposed to purchase approximately 3 Bcf of emergency gas and to recover the excess cost through a surcharge on all rates, except rate Schedule 20 (Transportation), of 5.5¢ per Ccf effective 25 April |977. On |2 April |977 Public Service filed an amendment to its Application in which the Company proposed to purchase 2.4 Bcf and to recover the excess cost through a 4.75¢ per Ccf surcharge to all customers.

By Order issued |4 April |977 the Commission suspended the proposed emergency purchase surcharge and set the matter for hearing on Tuesday, 24 May |977. This order provided that the suspension would be stayed, pending hearing and further order, if the Company filed an Undertaking to refund such amounts collected under the proposed surcharge as may later be found by the Commission to be unjust and unreasonable. On |9 April |977 Public Service filed such Undertaking, and on 20 April |977 the Commission approved the Undertaking and allowed the 4.75¢ per Ccf surcharge to become effective pursuant thereto, effective on bills rendered on and after 25 April |977.

On |5 April |977 the Attorney General filed Notice of Intervention which was recognized by Commission order of that date.

The matter came on for hearing as scheduled. Public Service presented the testimony of Crawford Marshall Dickey, Vice President - Gas Supply Services. Mr. Dickey's testimony tended to show the following: that Public Service will receive only about |0,000,000 dekatherms (Dt) of pipeline gas during the summer season April |, |977 - October 3|, |977, which is not sufficient to enable the Company to fill its storage for the coming winter and at the same time to meet the needs of its commercial and firm industrial customers; that in order to offset an expected decrease in pipeline supply for the |977-78 winter and to serve customers in priorities R.2 through M (firm customers and customers who have propane as their only alternate fuel) during the current summer period, Public Service must purchase 3 Bcf of emergency gas; the current cost of propane in Public Service's service area is $3.50 per million BTU which is comparable to a natural gas cost of $3.42 per Mcf; that the current cost of natural gas to Public Service's customers is $2.79 per Mcf or $2.73 per million BTU, which includes the 4.75¢ per Mcf emergency purchase surcharge; that, since the 4.75¢ surcharge was calculated on the basis of sales for the entire summer (April - October) period, Public Service is subject to an undercollection due to the Company's increased storage requirements and the delay in collecting the rate; that Public Service has attempted to obtain a reduction in the 45.8¢ per Dt transportation charge associated with emergency gas purchases and expects action on this matter shortly by the Administrator of the Emergency

Natural Gas Act; and that Public Service proposes to file new tariff sheets based on an updated estimate of cost and sales volumes reflecting an upward or downward adjustment in the emergency purchase surcharge at that time.

The Commission Staff offered the testimony of Daniel M. Stone, Utilities Engineer in the Gas Section of the Engineering Division. Mr. Stone presented an exhibit showing the amount of the surcharge necessary to recover the excess cost of 2.4 Bcf of emergency gas during the summer period under three different pricing policies: fully rolled-in, 4.75¢ per Ccf; rolled-in to all customers except residential customers, 5.682¢ per Ccf plus .879¢ per Ccf to all customers to insure that nonresidential customers receive the full benefit of additional volumes through the volume variation adjustment factor (VVAF benefit); and incremental, 17.2¢ per Ccf.

The Commission takes judicial notice, pursuant to G.S. 62-65(b), of testimony presented by Public Service in Docket No. G-5, Sub 125, a separate but related proceeding. There the record shows that Public Service has an uncollected balance of $168,843 in excess cost of emergency gas purchased during the 1976-77 winter heating season.

Based on the foregoing, the testimony adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., the Applicant, is a corporation organized and doing business under the laws of the State of North Carolina, having its principal office and place of business in Gastonia, North Carolina.

2. That Public Service is a public utility gas distribution company as defined by G.S. 62-3(23) and as such is subject to the jurisdiction of this Commission.

3. That Public Service has made application, pursuant to G.S. 62-133(f) and Rule R1-17(g) of the Commission's Rules and Regulations, seeking to recover the excess cost, estimated to be approximately $1,600,000 including gross receipts taxes of 2.4 Bcf of emergency gas purchases during the 1977 summer entitlement period.

4. That Public Service has an uncollected balance of $168,843 remaining from the emergency gas purchases during the 1976-77 winter season.

5. That Public Service must purchase 3 Bcf of emergency gas during the summer period in order to serve its customers in priorities R.2 through 4 and to fill its storage in preparation for the coming winter.

6. That the purchase of 3 Bcf of emergency gas during the summer period will inure to the benefit of all customers receiving gas from Public Service.

7. That the emergency purchase surcharge proposed by Public Service and approved herein is not designed to increase the Company's rate of return over that previously allowed but solely to produce revenues sufficient to offset the increased cost of purchased gas and related gross receipts tax.

Whereupon, the Commission reaches the following

CONCLUSIONS

All of the evidence in this proceeding shows that Public Service's regular flowing gas supplies are insufficient to enable the company to serve its residential, commercial and firm industrial customers during the summer period while meeting its storage requirements for the coming winter. Public Service therefore has undertaken to purchase emergency gas during the summer period.

The surcharge of 4.75¢ per Ccf, which, with Commission approval and subject to Undertaking, Public Service has been collecting from all customers since 25 April 1977, was based on the purchase of 2.4 Bcf of emergency gas. Since that rate was computed, Public Service has been advised by its supplier that supplies for the 1977-78 winter season will be approximately 700,000 Dt less than in the past winter. To offset this reduction in volumes, Public Service has contracted for an additional 786,765 Dt of temporary storage service, which requires injection during the summer season. Public Service therefore proposes to purchase a total of 3 Bcf of emergency gas in order to continue to serve its customers in priorities R.2 through M. The Company also proposes to file an updated estimate of costs and sales volumes along with new tariff sheets reflecting an adjustment in the surcharge increment for summer emergency gas purchases.

The Commission is of the opinion, and so concludes, that Public Service should purchase 3 Bcf of emergency gas and should recover the excess cost of such gas on a fully rolled-in basis from all customers during the summer period. The Commission further concludes that Public Service should file revised tariffs, and supporting cost and sales data, by 17 June 1977 in order to accurately track the excess cost of emergency gas for the remainder of the summer period. These revised tariffs should include an increment to all sales except sales to residential customers to recover the uncollected balance of $168,843 in excess cost of emergency gas purchased during the 1976-77 winter heating season. Finally, the Commission concludes that the surcharge heretofore collected by Public Service and approved in this docket is just and reasonable.

IT IS, THEREFORE, ORDERED as follows:

1. That the revised rate schedules filed by Public Service Company of North Carolina, Inc., on 12 April 1977 in the above docket are hereby approved and the Undertaking for Refund filed by Public Service on 19 April 1977 is hereby discharged.

2. That Public Service is hereby required to purchase approximately 3 Bcf of emergency natural gas and to serve its customers in priorities P.2 through M during the 1977 summer period.

3. That Public Service shall file, on or before 17 June 1977, further revised schedules containing current cost and sales data and tariffs to become effective on one day's notice, in order to recover the excess cost of 3 Bcf of emergency gas by a surcharge to all rate schedules (except Schedule 20 - Transportation) during the summer period and to recover from all customers, except residential customers, the uncollected excess cost of emergency gas purchases made during the winter period.

ISSUED BY ORDER OF THE COMMISSION.
This 15th day of June, 1977.

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

DOCKET NO. G-1, SUB 60
DOCKET NO. G-1, SUB 47(c)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
United Cities Gas Company Request	)	ORDER APPROVING
to Allow Curtailment Tracking	)	CURTAILMENT TRACKING
Adjustment and Application to	)	ADJUSTMENT AND
Recover Excess Cost of Emergency	)	RECOVERY OF EXCESS
Gas	)	COST OF EMERGENCY GAS

BY THE COMMISSION: On 2 November 1976 the Commission issued an Order Establishing A Rulemaking Proceeding in Docket No. G-100, Sub 29, and scheduled hearings to begin on 23 November 1976 for the purpose of considering alternative methods on the pricing of emergency gas to be purchased this winter by the gas utilities operating in North Carolina.

Pursuant to this rulemaking procedure, United Cities Gas Company (United) filed an application on 17 January 1977 seeking to recover excess cost of emergency gas purchases from its non-residential customers. (Docket No. G-1, Sub 60) In its application, United also requested approval in accordance with prior Commission orders in Docket No. G-1, Sub 47 for a new Curtailment Tracking Adjustment. (Docket No. G-1, Sub 47(c)).

In regard to its request for an emergency gas surcharge for non-residential customers, United proposes a surcharge of $.0328/therm to recover the excess cost of emergency gas. Additionally, United proposes to increase its curtailment tracking rate from the existing level of $.00|5/therm to a new level of $.0|32/therm. The amount of the Curtailment Tracking Adjustment increase is to be reduced by $.0038/therm to reflect credit for revenues realized under Transportation-Rate Schedule 755.

The Commission believes and therefore concludes that the proposed changes in the Curtailment Tracking Adjustment and the Emergency Gas Surcharge are just and reasonable. The Commission is also of the opinion and so concludes that the proposals are consistent with prior Commission proceedings in Docket No. G-|, Sub 47 (Curtailment Tracking Adjustment) and Docket No. G-|00, Sub 29 (Emergency Gas Surcharge) and should be allowed.

IT IS, THEREFORE, ORDERED THAT:

(|) United be allowed to recover its excess costs for emergency gas in the amount of $.0328/therm applicable only to Rate Schedules 730, 750 and 770.

(2) United be allowed a net increase in its Curtailment Tracking Adjustment in the amount of $.0079/therm applicable to all customers. This net figure is the requested increase of $.0|32/therm reduced by the present Curtailment Tracking Adjustment of $.00|5/therm and for credit for revenues received under Transportation-Rate Schedule 755 of $.0038/therm.

(3) United file appropriate tariffs incorporating said changes.

(4) United file complete accounting statements showing the amount of revenue received and any increased cost incurred in purchasing emergency gas during the winter period |976-|977 within thirty days after United Gas recovered its entire cost of emergency gas.

ISSUED BY ORDER OF THE COMMISSION.
This 20th day of January, |977.

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

DOCKET NO. G-9, SUB |58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Piedmont Natural Gas	)	ORDER SETTING
Company, Inc., for an Adjustment of	)	RATES AND
its Rates and Charges	)	CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Tuesday, Wednesday, Thursday and Friday, November 30, December 1, 2 and 3, 1976

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners J. Ward Purrington and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Jerry W. Amos and James T. Williams, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, Post Office Drawer U, Greensboro, North Carolina 27402

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.

M. Alexander Biggs, Biggs, Meadows, Batts, Etheridge & Winberry, Attorneys at Law, Post Office Drawer 153, Rocky Mount, North Carolina 27801
For: Brick Association of North Carolina

Robert Gruber, Special Deputy, and Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Justice Building, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Robert F. Page and Theodore C. Brown, Jr., Assistant Commission Attorneys, North Carolina Utilities Commission, Post Office Box 991 - Ruffin Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On July 23, 1976, Piedmont Natural Gas Company, Inc. (hereinafter called Piedmont or the Company), filed an application with this Commission for authority to adjust its rates and charges in North Carolina by an increase in rates designed to produce an additional $2,603,850 in general service revenues, applied to the 12 months ended April 30, 1976. The application in this proceeding affects Piedmont's rates and charges for natural gas service which it furnishes to its customers in North Carolina by requesting an average increase of approximately 4.2%. Piedmont requested that the increases be allowed to

become effective on all gas consumed on and after August 23, 1976.

By Order dated August 16, 1976, the Commission declared the matter to be a general rate case under G.S. 62-137; suspended the proposed rates for up to 270 days pursuant to G.S. 62-134; required Piedmont to submit additional operating data for each year of the period 1971-1975; established the test period to be the 12 months ended April 30, 1976; and set the matter for hearing on Tuesday, November 30, 1976.

On October 1, 1976, Notice of Intervention in this case was filed by the Attorney General of North Carolina on behalf of the using and consuming public of the State of North Carolina, and such intervention was recognized under G.S. 62-20 by a Commission Order issued on October 13, 1976.

On October 6, 1976, and October 13, 1976, Petitions for Leave to Intervene and Protests were filed with the Commission by the North Carolina Textile Manufacturers Association, Inc., and by the Brick Association of North Carolina. Such Petitions for Leave to Intervene were allowed by Commission Orders issued on October 19, 1976.

Other matters which are reflected in the Official File of this docket include:

1. On October 22, 1976, the Company filed data responses in compliance with the Commission Order of August 16, 1976.

2. On October 29, 1976, the North Carolina Textile Manufacturers Association, Inc., filed a Petition to Suspend Rates in Docket No. G-9, Sub 160 and moved to consolidate that docket with Docket No. G-9, Sub 158.

3. On November 2, 1976, the Attorney General of North Carolina filed with the Commission a Motion to Suspend Rates in Docket No. G-9, Sub 160 and to consolidate that docket for investigation and hearing with the Company's pending general rate case in this Docket No. G-9, Sub 158.

4. On November 3, 1976, Piedmont filed its response to the Petition of North Carolina Textile Manufacturers Association, Inc.

5. On November 22, 1976, Piedmont filed a Request for Admissions or Stipulations from the Commission Staff.

6. On November 22, 1976, Piedmont filed a Motion for a Prehearing Conference.

7. On December 3, 1976, Piedmont filed its Supply Summary for the 12 months ended April 30, 1976.

Following the exchange of additional or supplemental data, testimony and exhibits sponsored by the Commission Staff,

the public hearing in this matter began on November 30, 1976, at 10:00 A.M. in the Commission Hearing Room.

The Company presented the direct testimony and exhibits of six witnesses as follows:

1. Earl C. Chambers, Senior Vice President - Supply and Technology of Piedmont Natural Gas, testified about Piedmont's distribution and transmission facilities from the standpoint of system capacity and resources and about the Company's efforts to implement future peaking and supplemental gas supply projects. He also gave extensive testimony concerning Piedmont's anticipated gas supply over the next few years. He demonstrated the effects upon Piedmont's customers of the present and forecast volumes (under various assumptions) of available gas supplies, based upon normal and colder than normal weather conditions;

2. Everette C. Hinson, Vice President and Treasurer of Piedmont Natural Gas Company, Inc., testified concerning general corporate affairs, the Company's present financial condition, its needs for rate relief, its attempts to cut expenses, its needs to increase gas supply, the results of the Company's operations during the test year and its future financial needs;

3. Daniel Thomas Harning, Assistant Vice President of Stone & Webster Management Consultants, Inc., testified concerning his study of the undepreciated, trended original cost of the utility property of Piedmont Natural Gas Company in the State of North Carolina;

4. Wilton L. Parr, Vice President (in charge of North Carolina operations), Piedmont Natural Gas Company, Inc., testified as to service to customers in North Carolina, sales (residential, commercial and industrial), billings, collection, and construction. He also presented and described changes made from present rates by Piedmont in its proposed rate structure; finally, he presented the results of a study comparing the proposed rates with prices for competitive fuels;

5. Richard S. Johnson, Vice President of Stone & Webster Management Consultants, Inc., testified as to the design of the rate structures necessary to produce the revenue sought in the application and as to new, amended rate structures proposed during the course of the hearings; and

6. Robert S. Jackson, Senior Vice President and Director of Stone & Webster Management Consultants, Inc., prepared and presented testimony and studies intended to support his determination of the fair rate of return for Piedmont Natural Gas Company, Inc.

The Commission Staff offered the testimony and exhibits of four witnesses as follows:

1. Eugene H. Curtis, Jr., Operations Engineer, Operations Analysis Section, Division of Engineering, gave testimony concerning the replacement cost appraisal filed by Piedmont and his consideration of the appropriate derivation of the fair value rate base;

2. H. Randolph Currin, Jr., Senior Operations Analyst, Operations Analysis Section, Division of Engineering, testified as to the cost of capital and suggested fair rate of return for Piedmont;

3. Daniel M. Stone, Utilities Engineer, Gas Section, Division of Engineering, testified to the Company's operating revenues and costs of purchased gas, including a weather adjustment and a curtailment adjustment which he furnished to the Accounting Division. During the course of the hearing, Mr. Stone furnished supplemental exhibits in response to stipulation requests and amended rate schedules filed by the Company; and

4. Donald E. Daniel, Staff Accountant, Accounting Division, presented the results of his study of the Company's original cost net investment, revenues, expenses and test year operations, with resulting returns on original cost net investment and common equity under present and proposed rates.

The Company called these witnesses for rebuttal:

1. Richard S. Johnson, Vice President of Stone & Webster Management Consultants, Inc., further testified as to amended rate structures which were filed during the course of the hearing;

2. John M. Kingsland, First Vice President of White, Weld & Co., Incorporated, testified in rebuttal to the opinions concerning cost of capital and fair rate of return expressed by Staff witness Currin;

3. Seddon Goode, Jr., Senior Vice President and Treasurer of Interstate Securities Corporation of Charlotte, testified to the relative risk, from an investment point of view, between Piedmont Natural Gas and Duke Power Company and Carolina Power and Light Company.

Following the receipt of such testimony and exhibits, briefs and oral arguments were waived by all parties and it was agreed that the Company would file suggested Findings of Fact and Conclusions of Law and that all other parties were given an opportunity to do the same by December 20, 1976, and the record in this docket was closed, pending receipt of suggested Findings and Conclusions.

On December 16, 1976, the North Carolina Textile Manufacturers Association, Inc., filed with the Clerk of the Commission proposed Findings of Fact, Conclusions of Law and suggested Judgment.

On December 20, 1976, Piedmont filed with the Clerk of the Commission its proposed Findings of Fact and Conclusions of Law.

On January 10, 1977, the Brick Association of North Carolina advised the Commission by letter that it would like to adopt the proposed Findings of Fact, Conclusions of Law and suggested Judgment filed by the North Carolina Textile Manufacturers Association, Inc., as its own.

On December 30, 1976, Piedmont Natural Gas Company filed an application seeking authority from the Commission to terminate the curtailment tracking adjustment formula on the effective date of the rates established by the Commission in Docket No. G-9, Sub 158, or on January 31, 1977, whichever date shall first occur. By Order issued on January 12, 1977, the Commission suspended Piedmont's proposed application, pending the final Order to be issued in this docket, and combined and consolidated said application with this docket for purpose of decision.

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

FINDINGS OF FACT

1. That Piedmont Natural Gas Company, Inc., is a duly created and existing New York Corporation authorized to do business and doing business in North Carolina as a franchised public utility providing natural gas service in 42 North Carolina communities and is properly before the Commission in this proceeding for a determination of the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the test period established by the Commission and utilized by all parties in this proceeding is the 12 months ending April 30, 1976.

3. That the annual increase in rates and charges ultimately sought by Piedmont under its final set of proposed rates as filed during the course of hearings in this proceeding is $684,814.

4. That Piedmont is providing reasonably adequate natural gas service to its existing customers in North Carolina to the extent that it is able to do so under the present level of curtailment of its pipeline supplies of natural gas.

5. That the original cost of Piedmont's plant in service used and useful in providing natural gas service in North Carolina is $108,860,731. From this amount should be deducted the accumulated depreciation associated with the original cost of $26,808,057 and customer advances for construction of $355,335, resulting in a reasonable original

cost less depreciation or a net gas plant in service of $81,697,339.

6. That the reasonable replacement cost less depreciation of Piedmont Natural Gas Company's plant in service which is used and useful in providing natural gas service in North Carolina is $159,420,663.

7. That the fair value of Piedmont Natural Gas Company's plant used and useful in providing gas service in North Carolina should be derived by giving 60% weighting to the reasonable original cost less depreciation of Piedmont Natural Gas Company's plant in service and 40% weighting to the depreciated replacement cost of Piedmont's utility plant. By this method, using the depreciated original cost of $81,697,339 and the depreciated replacement cost of $159,420,663, the Commission finds that the fair value of Piedmont's utility plant devoted to gas service in North Carolina is $112,786,668. This fair value includes a reasonable fair value increment of $31,089,329.

8. That the reasonable allowance for working capital for Piedmont Natural Gas Company is $1,952,428.

9. That the fair value of Piedmont Natural Gas Company's plant in service to its customers within the State of North Carolina of $112,786,668 plus the reasonable allowance for working capital of $1,952,428 yields a reasonable fair value of Piedmont Natural Gas Company's property used and useful to North Carolina customers (or rate base) of $114,739,096.

10. That Piedmont's test year operating revenues, after appropriate accounting and engineering adjustments, under present rates are approximately $59,985,122, and under the Company's last proposed rates (Exhibit 12, Substitute) would have been approximately $60,669,936.

11. That the level of Piedmont's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $52,261,311 which includes the amount of $3,040,702 for actual investment currently consumed through reasonable actual depreciation.

12. That the capital structure which is proper for use in this proceeding is the following:

Item	Percent
Debt	51.09%
Preferred Stock	3.90%
Common Equity	42.48%
Cost-Free Capital	2.53%
Total	100.00%

13. That when the excess of the fair value of the Company's property used and useful at the end of the test

year over and above the 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	Percent
Debt	37.25%
Preferred Stock	2.84%
Common Equity	58.07%
Cost-Free Capital	1.84%
Total	100.00%

14. That the Company's proper embedded costs of debt and preferred stock are 7.00% and 5.16%, respectively. The fair rate of return which should be applied to the fair value of property (or rate base) is 6.73%. This return on Piedmont's rate base of 6.73% will allow the Company the opportunity to earn a return on fair value equity of 6.85%, after recovery of the embedded costs of debt and preferred stock. A return of 6.85% on fair value equity results in a return of 12.84% on original cost common equity. Such returns on rate base, fair value equity and common equity are just and reasonable.

15. That Piedmont should not be allowed any increase in gross revenues. Piedmont's pro forma return on the fair value of its property (or rate base) at the end of the test year was approximately 6.73%, which the Commission has determined to be just and reasonable. The Commission finds that, given efficient management, Piedmont will continue to have the opportunity to earn the level of returns on rate base, fair value equity and original cost equity which the Commission has found to be fair to both the Company and its customers.

16. That the schedule of rates and charges attached hereto as Appendix A of this Order is found to be just and reasonable and the same should be used by the Company to generate the amount of annual revenues ($59,985,122) herein found to be proper for Piedmont.

17. That the curtailment tracking adjustment formula (or CTA) heretofore approved for use by Piedmont in Docket No. G-9, Sub 131 and modified in subsequent proceedings before the Commission is a just and reasonable rate-making tool or method of protecting Piedmont from wide fluctuations in the level of curtailment from its pipeline supplier and of protecting Piedmont's customers from the uncertainties of continual rate cases which would be required without the CTA. The new base margin, established herein, which is appropriate for future CTA filings is $26,682,611 (the difference between test year gas sales revenues, less associated gross receipts taxes and test year cost of gas), and the new base period supply volumes which are appropriate for use in future CTA filings are 27,169,524 MCF.

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

The evidence for these findings is contained in the verified application, the Commission's Order of Suspension and Investigation and the testimony of Company witness Hinson and Staff witness Daniel. The evidence was uncontradicted and uncontested. These findings are essentially procedural and jurisdictional in nature.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this conclusion is to be found in the verified application, the testimony and exhibits of Company witnesses Hinson and Johnson (particularly Exhibit 12 and Exhibit 12, Substitute) and the testimony and exhibits of Staff witness Stone.

As originally requested by the Company, the proposed rates and charges would have produced additional revenues of $2,603,850 [Hinson Exhibit I, Schedule 8, Page 1, Line 1, Column (4)]. The Company revised its request for additional revenues when, during the hearing, it filed Company Exhibit 12, which eliminated a portion of the original request applicable to the excess cost of emergency gas. Company witness Hinson testified that he believed that the additional revenues as revised by Exhibit 12 would be $652,990 (Transcript, Volume V, page 31). Thereafter, Piedmont further revised its proposed rates by filing Exhibit 12, Substitute. Company witness Johnson, in evaluating the impact of Exhibit 12, Substitute on his prefiled testimony and exhibits, revised his testimony as to proposed additional revenues to show a figure of $734,114 (Transcript, Volume VII, page 59). Staff witness Stone agreed with this amount subject to check (Transcript, Volume VII, page 89). However, further examination of the application of Company Exhibit 12, Substitute rates to Staff witness Stone's volumes indicates that these rates would only produce $684,814 of additional annual revenues.

The Commission concludes that the final revision of proposed rates and charges as contained in Company Exhibit 12, Substitute would produce additional annual revenues of $684,814.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this conclusion is found in the testimony and exhibits of Company witnesses Hinson and Chambers and Staff witness Stone. The Commission is aware of the service problems now existing throughout Piedmont's territory but takes notice of information existing in its files, much of which has been widely publicized by the news media. Such information shows that these service problems are the end result of two principal factors: record setting cold weather during the winter heating season (November 1976 and January 1977 were the coldest November and January on record and December 1976 was the second coldest December on record)

and record high levels of curtailment (Piedmont has available for sale only 40% of its 1971 contract demand level of gas from its principal pipeline supplier and emergency gas has been difficult to acquire from intrastate distribution companies in the gas producing areas because of colder than normal weather there).

Piedmont's own Exhibits (See Chambers' Schedule 9, Exhibit 2) demonstrated that, without substantial emergency gas purchases, the Company would not be able to serve all of its traditionally firm market under design weather conditions. The weather conditions actually experienced thus far this winter have been much worse than those of even a design winter.

Some of Piedmont's industrial customers have taken exception to the Company's load growth policies as heretofore established in Docket No. G-100, Sub 21. We will not comment upon these exceptions other than noting that additional hearings with a view towards possible revision of the present load growth policies have been scheduled before the Commission on April 5, 1977.

Based upon all the facts and circumstances before us, the Commission concludes that, given both the severity of the winter weather and the level of CD-2 curtailment being experienced from Transcontinental Gas Pipe Line Corporation, Piedmont is doing a reasonable adequate job of customer service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Both Company witness Hinson and Staff witness Daniel presented identical amounts for gas plant in service, accumulated depreciation and customer advances for construction, and the resulting original cost of net gas plant in service is as follows:

Original cost of gas plant in service		$108,860,731
Less: Accumulated depreciation	$26,808,057	
Customer advances for construction	355,335	27,163,392
Net original cost of gas plant in service		$ 81,697,339

There being no evidence to the contrary, the Commission concludes that the original cost of Piedmont's net gas plant in service for use in this proceeding is $81,697,339.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 AND 7

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 utility plant. Company witness Harning testified with respect to his

determination of the net trended original cost valuation of Piedmont Natural Gas Company's properties used and useful in providing gas service to North Carolina as of April 30, 1976. Witness Harning calculated a trended original cost using the Handy-Whitman Index as well as the Boston Cost Trends and calculated the accrued depreciation at the end of the test peiod by applying the same percentage as the book reserve bears to the original cost of depreciable property.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the trended original cost as calculated by Company witness Harning but adjusted four accounts to correct for economies of scale inherent in large scale construction. The Commission concurs that these adjustments should be made in calculating replacement cost. Accrued depreciation was calculated by Staff witness Curtis based on Iowa Survivor Curve data for those accounts where information was available. Such adjustments are proper for use by the Commission for depreciation purposes. The depreciation is deducted each year from the original cost surviving dollars to give a net for that particular year. The sumup until the end of the test period is the accrued depreciation for deduction from replacement cost. The Commission concurs that the Iowa Survivor Curve method gives a more correct depreciation than the book reserve method. The book reserve method was utilized as calculated by witness Harning for those accounts where Iowa Survivor Curve information was not available.

The Commission concludes that the reasonable replacement cost less depreciation of Piedmont Natural Gas Company's gas utility plant in service is $159,420,663.

Having determined the appropriate original cost less depreciation to be $81,697,339 and the reasonable estimate of net replacement cost to be $159,420,663, the Commission must determine the fair value of Piedmont Natural Gas Company's net plant in service.

The Company gave no weighting to the original cost of such plant in its calculation of fair value. Instead, the Company merely took the results of the replacement cost less depreciation study performed by witness Harning, added in the allowance for working capital and called the result its fair value or rate base. G.S. 62-133(e)(1) requires the Commission to ascertain the "fair value of the public utility's property used and useful in providing the service rendered to the public within this State." In making such determination, the Statute requires the Commission to consider, among other things, "the reasonable original cost of the [utility's] property less that portion of the cost which has been consumed by previous use recovered by depreciation expense." The Commission is of the opinion that the Company's calculation of fair value is deficient in that it gives no weight to original cost.

The weighting initially proposed by Staff witness Curtis of 42% for replacement cost less depreciation and 58% for original cost was based upon the common equity ratio in the Company's overall capital structure. The Commission is not yet prepared to say that a direct weighting of the replacement cost and the original cost in the same proportion as the equity and debt portions of the capital structure is the appropriate method for it to exercise its expert judgment in this area.

The Commission feels that some reasonable weighting must be given to replacement cost for the protection of Piedmont's equity holders and that some reasonable weighting must be given to original cost for the protection of its customers. The Commission is of the opinion, and thus concludes, that a weighting of 2/5 (40%) should be given to replacement cost and 3/5 (60%) weighting should be given to original cost in calculating the fair value of Piedmont's plant in service. By weighting the original cost less depreciation of $81,697,339 by a 60% factor and the replacement cost less depreciation of $159,420,663 by a 40% factor, the fair value of Piedmont's utility plant in North Carolina is $112,786,668. This fair value calculation includes a reasonable fair value increment of $31,089,329.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Staff witness Daniel and Company witness Hinson presented different amounts for the allowance for working capital. However, Company witness Hinson adopted the adjustments made by Staff witness Daniel (Transcript, Volume III, pages 30, 31) including those to working capital. The working capital allowance of the two witnesses are compared below.

Item	Staff Witness Daniel	Company Witness Hinson
Cash	$1,122,104	$1,122,104
Minimum bank balance	1,494,653	1,494,653
Materials and supplies	2,960,998	2,151,665
Prepayments	203,012	173,732
Average tax accruals	(2,915,294)	(2,915,294)
Customer deposits	(913,045)	(813,677)
Total	$1,952,428	$1,213,183

As indicated above, the difference between the two working capital allowances is contained in the materials and supplies, prepayments and customer deposits components of the working capital allowance.

Staff witness Daniel used average materials and supplies and prepayments in contrast to the end-of-period amounts used by Company witness Hinson. Staff witness Daniel testified that he considered the average balance in materials and supplies more representative of the normal level for these items than the end-of-period balance. He

stated that the inclusion at April 30, 1976, of the end-of-period balance of gas in storage at the end of the heating season was not representative, as this is normally a low point for gas in storage. He also considered average prepayments to be more representative of the normal level for prepayments.

Staff witness Daniel used end-of-period customer deposits as opposed to the average customer deposits of Company witness Hinson. Mr. Daniel stated that the balance in customer deposits could normally be expected to increase from year to year due to customer growth and that this growth trend has not reversed to the point that average customer deposits are more representative of the normal level than end-of-period.

The Commission concludes that average materials and supplies and prepayments and end-of-period customer deposits more properly reflect the amounts of those items which should enter into the determination of the allowance for working capital. The Commission, therefore, adopts the working capital allowance of $1,952,428 presented by Staff witness Daniel.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence for this finding is contained in Findings of Fact Nos. 7 and 8. The addition of the reasonable allowance for working capital of $1,952,428 to the fair value of Piedmont's plant in service to its customers in North Carolina at the end of the test period of $112,786,668 yields a reasonable fair value of Company property used and useful to customers in North Carolina (or rate base) of $114,739,096.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding is contained in the verified application, the testimony and exhibits of Company witnesses Hinson and Johnson and the testimony and exhibits of Staff witnesses Stone and Daniel.

Staff witness Daniel testified that, based upon the verified application, the Company was seeking additional annual revenues of $2,603,850. He further testified that, based upon test year operations as adjusted, under the rates presently in effect, the Company's annual revenues were $59,952,677 (Daniel's Exhibit 1, Schedule 3, Page 1 of 2). Staff witness Stone also presented testimony on the appropriate level of operating revenues which indicated that, under present rates, such revenues amounted to $59,952,677 (Transcript, Volume VII, page 87). Such level of test year revenues under present rates was adopted, for purposes of this rate case only, by Company witnesses Hinson (Transcript, Volume III, page 50) and Johnson (Transcript, Volume VII, pages 53, 57). Based upon its review of the Staff's calculations of volumes and rates, the Commission

has determined that the pricing of the test year volumes in Rate Schedule #102-Air Conditioning resulted in an understatement of revenues in the amount of $32,445. The Commission is of the opinion that this understatement of $32,445 should be added to the test year operating revenues of $59,952,677 presented by Staff witnesses Daniel and Stone. The Commission, therefore, concludes that the appropriate level of test year operating revenues under present rates for use in this proceeding is $59,985,122.

Staff witness Stone also presented testimony concerning what the test year revenues would have been under the rates proposed by the Company in Exhibit 12, the initial revision to the rates proposed in the application. Witness Stone testified that test year revenues would have been $61,245,381 under the rates proposed by Piedmont in Company Exhibit 12.

Thereafter, Piedmont filed its final set of proposed rates in Company Exhibit 12, Substitute. Company witness Johnson testified that the test year revenues would have been $60,686,791 under rates proposed in Exhibit 12, Substitute. Staff witness Stone testified that, subject to testing the proposed rates with his volumes, he agreed with the revenue calculations of witness Johnson. In checking or multiplying the rates proposed by Exhibit 12, Substitute with Mr. Stone's volumes for the test year, the Commission has determined that the correct revenues which would be produced by the rates proposed in Exhibit 12, Substitute are $60,669,936.

The Commission, therefore, concludes that the annual revenues which would be produced by the rates last proposed by the Company are $60,669,936.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Hinson and Staff witness Daniel presented testimony and exhibits showing the level of operating revenue deductions that they considered appropriate for use by the Commission for the purpose of fixing Piedmont's rates in this proceeding.

As a result of the Staff's agreement to a request by the Company that the Staff admit or stipulate to certain adjustments to the operating revenues and cost of gas presented by the Staff, Mr. Daniel filed revised Daniel Exhibit I, Schedule 3. Subject to the foregoing adjustments, Company witness Hinson adopted the operating revenue deductions of Staff witness Daniel as presented in revised Daniel Exhibit I, Schedule 3, Column (d), Transcript, Volume III, pages 30-31, 42-54.

A summary of operating revenue deductions presented by the Company, Staff adjustments, and Staff operating revenue deductions follows:

	Company	Staff Adjustments	Staff
Purchased gas	$31,923,580	$(2,343,966)	$29,579,614
Operation and maintenance expense	9,638,165	(59,828)	9,578,357
Depreciation	3,040,702	-	3,040,702
Taxes-other than income	5,151,205	(32,861)	5,118,344
State income taxes	497,012	120,089	617,101
Federal income taxes	3,169,612	903,067	4,072,679
Investment tax credit normalization	288,072	-	288,072
Investment tax credit amortization	(51,096)	-	(51,096)
Total operating revenue deductions	$53,657,272	$(1,413,499)	$52,243,773

The $2,343,966 reduction in cost of gas is due to the elimination of $2,104,266 of the pro forma cost of 1,635,105 MCF of emergency gas to the extent that it exceeded Transco cost (1,635,105 MCF x $2.25 - $.96307). The balance of the adjustment, $239,700, results from volume and weather adjustments by Staff witness Stone which differed slightly from those of the Company.

The adjustments to operation and maintenance expense represent the elimination of expenses of $29,087 associated with Piedmont's exploration program which are nonrecurring in nature and the elimination of $30,741 of social and civic dues and out-of-period gas association dues.

The adjustments to taxes are a direct function of Staff adjustments to revenues, purchased gas, operation and maintenance, and interest expense. These adjustments total $990,295. Therefore, Staff adjustments to operating revenue deductions total $1,413,499 resulting in total operating revenue deductions of $52,243,773.

As stated above, the Company, for purposes of this rate case only, adopted the adjustments of the Staff and the resulting level of operating revenue deductions of $52,243,773.

As a result of the increase in revenue of $32,445 deemed proper in Finding of Fact No. 9, the adjustments to taxes by Staff witness Daniel should be adjusted as follows:

	As Presented	As Adjusted
Taxes other than income	$(32,861)	$ (30,915)
State income taxes	120,089	121,919
Federal income taxes	903,067	916,829
Total taxes	$990,295	$1,007,833

This increase in adjustments to taxes results in a change in the total adjustments to expenses from $(1,413,499) to $(1,395,961) and a corresponding increase in total operating revenue deductions from $52,243,773 to $52,261,311.

The Commission thus concludes that the proper level of operating revenue deductions is $52,261,311.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 AND 13

The evidence for these findings is contained in the Company's response to the Commission's minimum filing requirements and the testimony and exhibits of Company witness Jackson and Staff witnesses Currin and Daniel.

Company witness Jackson presented the following capital structure:

Item	Amount	Percent
Debt	$ 55,634,000	52.6%
Preferred Stock	4,086,000	3.9%
Common Equity	45,947,000	43.5%
Total	$105,667,000	100.00%

However, witness Jackson failed to include in his capital structure the Job Development Investment Tax Credit, cost-free capital, current maturities of debt and preferred stock, and subsidiary losses which had been deducted from retained earnings. He did, however, transfer $826,650 from the preferred stock account to the common equity account. This was done to reflect the anticipated conversion of the Company's convertible second preferred stock to common stock.

The Company Data Response to the minimum filing requirements presented a different capital structure, as follows:

Item	Amount	Percent
Debt	$ 58,107,002	52.17%
Preferred Stock	5,265,750	4.73%
Common Equity	45,120,134	40.51%
Cost-Free Capital	2,868,830	2.59%
Total	$111,373,716	100.00%

Staff witnesses Currin and Daniel agree with the Company's figures for debt and cost-free capital. Currin agreed with

Jackson's expectation of imminent conversion of the convertible second preferred stock and, consequently, transferred $826,650 from the preferred account to the common equity account. Daniel also added $2,370,412 to the Company's common equity account, representing unamortized Federal Investment Tax Credit and previously deducted losses from a subsidiary exploration company.

The Commission finds and concludes that the proper capital structure is that which was presented in the Company Data Response as modified by Staff witnesses Currin and Daniel. The resultant capital structure is indicated below.

Item	Percent
Debt	51.09%
Preferred Stock	3.90%
Common Equity	42.48%
Cost-Free Capital	2.53%
Total	100.00%

When the excess of the fair value of the property, or rate base, over the original cost net investment in the amount of $31,089,329 is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

Item	Percent
Debt	37.25%
Preferred Stock	2.84%
Common Equity	58.07%
Cost-Free Capital	1.84%
Total	100.00%

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 AND 15

The evidence for these findings is contained in the Company's data responses to the minimum filing requirements, the testimony and exhibits of Company witness Jackson, the testimony and exhibits of Staff witness Currin and the testimony of Company rebuttal witnesses Kingsland and Goode.

Company witness Jackson asserted, but furnished no supporting calculations to prove, that the costs of Piedmont's debt and preferred stock are 7.08% and 5.16%, respectively.

The Company's Data Response shows the cost of debt to be 7.00% and the cost of preferred stock to be 8.12%, as a result of claiming a 24% cost rate for the convertible second preferred stock, which witnesses Jackson and Currin both transferred to the common equity account.

The Commission finds and concludes that the embedded costs of debt and preferred stock are 7.00% and 5.16%, respectively.

Company witness Jackson began his cost of equity testimony with a comparable earnings analysis of gas distribution companies with annual operating revenues between $40 million and $170 million which were derived 90% or more from gas operations and which, like Piedmont, had no significant production of their own. Fifteen companies passed this initial test, but three were dropped because their market/book ratio had been less than 1.0 in each year from 1971-1975. Jackson's analysis showed the average return on equity from 1971-1975 for the remaining 12 companies to be 12.9%. Jackson rejected the 12.9%. He then dropped from his comparison group five more companies which had not averaged a market/book ratio of at least 1.0 during the period 1971-1975. The new sample group showed an average return on equity from 1971-1975 of 13.9%, but Jackson decided that other analyses were necessary before reaching a credible conclusion.

Jackson next conducted a "realized return" study but similarly concluded that it did not directly measure the current cost of equity capital and rejected the results of such study.

Finally, Jackson performed a discounted cash flow analysis which produced a cost of equity of 14.15%. Performing another DCF analysis, but using 1975 dividend yields instead of current dividend yields, he found a cost of equity of 15.57%. Jackson concluded that 14.50% represents the fair return on equity for Piedmont.

Company rebuttal witness Kingsland testified that, in his opinion, Piedmont Natural Gas should be permitted to earn a return on common equity in the range of 14.1% to 14.5%. He admitted that such opinion was merely that and was not based upon traditional, detailed market analysis and rate of return studies. He also criticized Staff witness Currin's analysis utilizing Duke and CP&L and said that he preferred Company witness Jackson's testimony. His primary purpose was to try to refute the testimony of witness Currin.

Company rebuttal witness Goode testified that he believed that an investment in Piedmont Natural Gas was riskier than an investment in Duke Power Company.

Staff witness Currin's application of the traditional DCF technique to Piedmont resulted in an indicated cost of equity of 15.22%. Currin rejected that number, claiming that Piedmont's high historical growth rates were not fairly representative of what Piedmont will experience in the future. Accordingly, he concluded that the application of the DCF using historical growth rates was inappropriate.

Currin then undertook a comparative study of the relative risks of Piedmont vs. Duke Power Company and Carolina Power and Light Company. He demonstrated that Piedmont had been less risky than both CP&L and Duke over the past 10 years. Some of the evidence for this proposition is that Piedmont

has enjoyed both a smaller fluctuation in returns on equity and a higher average return on equity than either CP&L or Duke over the 10-year period.

Though he agreed that Piedmont's volumes of gas available for resale have been unstable and have been curtailed at increasing rates for the past six years, Currin asserted that, as a result of the five "automatic" adjustment clauses (one of which specifically compensates for changes in volume) which North Carolina's natural gas distributors enjoy, there was no reason to believe that Piedmont's relative risk position would change in the near future. He claimed that, consequently, the maximum return on equity for Piedmont should be no greater than the cost of equity to Duke and CP&L. Using the DCF technique he found the average cost of equity, net of issuance expenses, for Duke and CP&L to be 12.93%. Thus, he testified that the maximum return on equity which should be allowed to Piedmont is 12.93%.

In considering Company witness Jackson's testimony, the Commission is troubled by Jackson's selection criteria for his comparable gas distribution companies. His main criteria was that sales revenues be between $40 million and $170 million. At no point does he consider the similarity, or lack thereof, of the regulatory environment, which is obviously one of the principal factors affecting the risk of a particular gas utility. On cross-examination, witness Jackson agreed. A portion of that cross-examination appears in Transcript, Volume VI, page 100:

> "Q. Did you in any way take into consideration the regulatory environment which these 15 companies reside in?
>
> A. No, I have made it a practice not to do that, primarily on the basis of being accused of tailoring the resulting list. I define the criteria as I have set forth in the testimony you just referred to on pages 10 and 11 and then let the companies fall where they may, without respect to regulation.
>
> Q. But don't you think that the regulatory environment has some basis or some effect on your investor?
>
> A. Oh, yes, I think certainly the investors perceive regulation to be certainly one of the factors that will be considered by them and is considered by them. I think there is no question there."

Jackson subsequently admitted that he was not personally familiar with the total regulatory environment in which Piedmont operates (Transcript, Volume VI, page 102).

> "Q. You are not aware of the other three adjustment clauses that Piedmont has? There is a total of 5 adjustment clauses and you spoke of only 2, is that correct?

A. I was aware of only those that I just mentioned."

It is difficult for this Commission to give conclusive weight to witness Jackson's testimony, since he agrees that regulatory climate is important to investors but admits that he did not determine if his "comparable" companies had comparable regulatory environments. This omission occurred in part, possibly, because he was unfamiliar with the significant financial protection afforded Piedmont by all of its approved adjustment clauses.

Company rebuttal witness Kingsland supported Jackson's contention that 14.5% was a reasonable return on equity but admitted that he had not made a traditional study (Transcript, Volume VIII, page 73). Failure to produce any supporting evidence for his contentions limits the Commission's ability to rely on his testimony in an area where other witnesses were able to provide documentation for their recommendations.

As for Company rebuttal witness Goode's contention that Piedmont is riskier than Duke Power Company, the witness admitted that he was not an expert in these matters. The following portion of his cross-examination appears in Volume VIII of the Transcript on pages 124-125:

"Q. You don't purport to be an expert in any way in the assessment of risk, of relative risk of public utilities, do you?

A. No, sir."

In addition to the testimonies of the various witnesses, this Commission must also note that, while Piedmont seeks no higher return on equity than the Commission awarded in its last general rate case in December 1974, numerous changes have since occurred within the Company, the regulatory environment, and the capital markets. Over the period December 1974 to January 1977, some of those changes which occurred are the following:

(1) Piedmont increased its equity ratio from 35.39% to 42.48%, primarily through retention of earnings;

(2) Piedmont received a volume variation adjustment clause, an exploration surcharge clause, and a surcharge clause to recover the excess costs of emergency purchases;

(3) The rate of inflation, as indicated by the Wholesale Price Index, dropped from 20.9% to approximately 5.0%;

(4) The average cost of "A" rated utility bonds dropped from 10.19% to 8.57%;

(5) The average cost of "BAA" rated utility bonds dropped from 11.32% to 9.14%;

(6) The average yield on 3-month Treasury Bills dropped from 7.52% to 4.61%; and

(7) The prime rate dropped from approximately 9.5% to approximately 6.25%.

Three conclusions are obvious: The cost of capital has dropped significantly in the past two years; Piedmont has greatly reduced its financial risk by improving its common equity ratio substantially; and the Company is relatively well insulated from business risk by its adjustment clauses. Accordingly, the Commission finds and concludes that a return on book common equity of 12.75% is fair and reasonable under presently existing circumstances.

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 Piedmont's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of Piedmont's capital structure. Considering the current investment markets in which Piedmont 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 6.73% on the fair value of Piedmont's property used and useful in rendering natural gas utility service to its customers in North Carolina is just and reasonable. Such a return on fair value will produce a return of 6.85% on fair value equity, including both book equity and the fair value increment, which is just and reasonable. The actual return on end-of-period book common equity yielded by the approved rate of return of 6.73% on rate base is 12.84%. Such returns on fair value, fair value equity and book common equity are just and reasonable.

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, given prudent management, to attract sufficient debt and equity capital from the market to discharge its obligations, including a fair profit to its stockholders, 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 rates approved herein. Such charts incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

SCHEDULE I
PIEDMONT NATURAL GAS COMPANY, INC.
DOCKET NO. G-9, SUB 158
STATEMENT OF RETURN
TWELVE MONTHS ENDED APRIL 30, 1976

	Present and Approved Rates
OPERATING REVENUES	
Gas Sales	$ 59,853,431
Other Operating Revenues	131,691
Total Operating Revenues	59,985,122
OPERATING REVENUE DEDUCTIONS	
Purchased Gas	29,579,614
Operation and Maintenance Expense	9,578,357
Depreciation	3,040,702
Taxes - Other Than Income	5,120,290
Income Taxes - State & Federal	4,942,348
Total Operating Revenue Deductions	52,261,311
Net Operating Income For Return	$ 7,723,811

INVESTMENT IN GAS PLANT	
Gas Plant In Service	$108,860,731
Less: Accumulated Depreciation	(26,808,057)
Customer Advances For Construction	(355,335)
Net Investment In Gas Plant In Service	81,697,339
ALLOWANCE FOR WORKING CAPITAL	
Cash	1,122,104
Materials and Supplies	2,960,998
Minimum Bank Balances	1,494,653
Average Prepayments	203,012
Less: Average Operating Tax Accruals	(2,915,294)
Customer Deposits	(913,045)
Total Allowance for Working Capital	1,952,428
Net Investment in Gas Plant In Service Plus Working Capital	$ 83,649,767
Fair Value Rate Base	$114,739,096
Rate of Return on Fair Value Rate Base	6.85%

SCHEDULE 11
PIEDMONT NATURAL GAS COMPANY, INC.
DOCKET NO. G-9, SUB 158
RETURN ON FAIR VALUE EQUITY AND RATE BASE
TWELVE MONTHS ENDED APRIL 30, 1976

Capitalization	Fair Value Rate Base Present and Fair Value	Ratio %	Embedded Cost or Return on Common Equity Approved Rates- Rate Base	Net Operating Income
Long-term debt	$ 42,736,666	37.25	7.00	$2,991,567
Preferred stock	3,262,341	2.84	5.16	168,337
Cost-free capital	2,116,339	1.84	-	-
Common equity				
Book $35,534,421		30.97		
Fair value increment 31,089,329		27.10		
	66,623,750	58.07	6.85	4,563,907
Total	$114,739,096	100.00		$7,723,811

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. |6

The evidence for this finding is contained in the testimony and exhibits of Company witnesses Johnson and Parr, and the testimony and exhibits of Staff witness Stone.

Both Company witnesses, Johnson and Parr, testified that certain minor modifications should be made to the present rate structure to better align all rates and charges with the current curtailment priorities established by the Commission in Rule R6-|9.2. Mr. Johnson and Mr. Parr testified that, in order to be consistent with the Rule, the following specific changes in Piedmont's present rate structure were needed:

(|) Upgrade those R.| priority customers using less than 50 MCF per day from Rate Schedule |04 to Rate Schedule |02;

(2) Combine all interruptible Rate Schedules |07, |08, |09, ||0, and ||| into a new Rate Schedule |07 with a single flat rate;

(3) Establish a single flat rate for Rate |06;

(4) Combine the bottom two blocks of Rate Schedule |02 so that such rates will be slightly higher than those in lower priority Rate Schedule |03; and

(5) Combine the lower blocks of Rate Schedule |04 so that such rates are slightly higher than those in lower priority Rate Schedule |C6.

Staff witness Stone agreed with these rate structure changes as proposed by the Company.

The Commission is of the opinion, and thus concludes, that these rate structure changes are just and reasonable. Based on the evidence offered that no sales to interruptible customers under Rate Schedules |06 and |07 would occur in the proformed test year, the Commission concludes that flat rates of $|.826 per MCF for Rate Schedule |06 and $|.726 per MCF for Rate Schedule |07 should be imposed on sales to interruptible customers. The Commission also concludes that, for purposes of computation of the curtailment tracking adjustment (CTA), when the volumes for a |2 months' period are greater than the volumes established in this rate case, up to |,254,48| MCF will be used in Rate Schedule |06 and any additional volumes will be placed in Rate Schedule |07. The rates herein determined to be just and reasonable are those which are set forth in Appendix A attached hereto.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The Commission, in its Order of December 12, 1974, in Docket No. G-9, Sub 131, Piedmont's last general rate case, approved a volume variation adjustment factor or curtailment tracking adjustment (CTA) to track increases or decreases in the margin between gross revenues less applicable gross receipts tax and the cost of gas which was produced by changes in the curtailment of gas supply. The CTA has been modified by subsequent Orders of the Commission and has been appealed by the Attorney General to the North Carolina Court of Appeals.

On December 30, 1976, some three weeks after the conclusion of the hearings in this docket, Piedmont filed a petition with the Commission to terminate the CTA. The petition alleged, among other things, that the CTA, as applied by the Commission, (a) made it impossible for Piedmont to accurately report its earnings; (b) placed an inordinate administrative burden on the Company; (c) jeopardized the Company's financial integrity; (d) made it impossible for the Company to maintain its margin; and (e) jeopardized Piedmont's ability to market its securities on reasonable terms.

For the reasons given hereafter, the Commission is of the opinion that Piedmont's petition is untimely, incorrect and should be denied.

1. The Commission was unsure of Piedmont's position with regard to the CTA at the time of the hearings. The motion, however, was not filed until after the hearings were completed, at a time when no additional hearings could be scheduled and no additional evidence could be received. Commission Staff witness Daniel alluded to the possibility that Piedmont might decide to abandon the CTA when he stated in direct testimony (Transcript, Volume VIII, page 10) as follows:

"Q. Does this conclude your testimony?

A. Yes, however, the company has indicated to the Commission that there is a possibility they will introduce testimony which would, in effect, eliminate the volumetric variation adjustment formula (curtailment tracking adjustment). Should this occur, I would have additional direct testimony to present."

Since the company's petition was filed after the record in this docket was closed, the "additional direct testimony" mentioned above by witness Daniel could not be filed or considered in this docket.

A portion of the cross-examination of Company witness Hinson reflects the following discussion with regard to the CTA:

"Q. Mr. Hinson, what is the CTA?

A. Curtailment tracing [sic] adjustment.

Q. And what does it do?

A. It permits the Company generally to increase its rates sufficient to offset margin losses which occur by reason of supplier curtailments.

Q. Piedmont has had a CTA in effect since its last general rate case; has it not?

A. The first CTA was filed to be effective January 1, 1975.

Q. Which was some matter of a week or two after the final order was issued in Docket 131?

A. Right. I was relating that date to the date that the rates in that case went into effect under bond which was October 1.

Q. The CTA alone during the test year involved in this proceeding generated more additional revenues for Piedmont than the total amount of the increase request as filed in this case; did it not?

A. Yes, I think that is correct, yes.

Q. And the CTA is designed to and in fact does protect the Company from fluctuations in its available supply of gas to sell, does it not?

A. Yes. As I said earlier, it permits us to offset these margin losses by reason of increases in curtailment." (Transcript, Volume III, pages 84, 85)

"Q. Let's look over at Page 12 and 13 of your testimony, particularly the answer that you give to the question beginning on Line 12, there you are discussing the effects on Piedmont of the gas supply situation of Transcontinental both through the wholesale cost increases that Transco passes on to you to recover its fixed costs and the effect on volumes that you have for sale. Now we have already agreed, have we not, Mr. Hinson, that as far as the effects of these wholesale cost increases and the effects of the fluctuations in volumes the Company for the most part is protected from those by the operation of the PGA and the CTA?

A. Oh, yes." (Transcript, Volume III, page 99)

2. The CTA formula here in question was originally approved in Docket No. G-9, Sub 13 due to the continuing erosion of Piedmont's gas supply caused by curtailment and the belief, based on the best information then available,

that curtailment would continue to worsen and the Company's gas supply would become smaller and smaller in the future. It was determined that the uncertainties concerning future gas supplies and the anticipated deepening curtailments of those supplies would cause a parade of general rate cases, which would be expensive and time consuming and would work to the detriment of both Piedmont and its customers.

It was determined in Docket No. G-9, Sub |3| that the CTA formula would provide a just and reasonable rate-making tool or method of protecting the Company from the severe losses associated with a decreasing volume of gas available for resale and would also protect the customers of the Company from paying excessive rates in the event of any future increase in the supply of gas available for resale.

As anticipated, curtailments increased drastically during |975 and |976, resulting in an egually drastic decrease in Piedmont's gas supply. The CTA formula has operated very efficiently in protecting Piedmont from losses which would otherwise have occurred due to curtailment of gas supply. In fact, based upon periodic reports of actual operations filed with the Commission during |975 and |976, Piedmont's actual earnings for this period, before accounting and pro forma adjustments, exceeded the level of returns found just and reasonable by the Commission in Docket No. G-9, Sub |3|. Such level of returns was the subject of a Commission investigation in Docket No. G-9, Sub |48.

At the present time, Piedmont is operating on a gas supply level which is only approximately 40% of its total |97| contract demand level. Even this reduced current level of gas supply could worsen in the immediate future. However, it is also possible that there will be a reversal of the downward trend in gas supply in the near term future, due to the efforts of Transco and Piedmont to obtain additional gas supplies.

In either or both events, it is obvious that the conditions which originally necessitated the use of the CTA formula still exist today. The formula will continue to provide the Company with protection if the gas supply continues to decrease and, properly applied, it will protect the Company's customers from paying excessive rates if the gas supply situation should improve. The Commission believes that it would be unconscionable, under all the present facts and circumstances, to do away with the CTA formula at a time when the formula might enure to the benefit of Piedmont's customers, after a lengthy period of time during which its benefits accrued primarily, if not solely, to the Company.

3. The Commission is not persuaded by the arguments raised by Piedmont in its petition. The Commission does not understand the problems alleged by Piedmont with regard to reporting earnings, since the acccunting notes with regard to reported earnings could be handled in the same fashion as

an interim increase or an approved increase which is under appeal. The administrative burden on Piedmont, which is required to adjust the CTA rates only twice a year, cannot be any greater than the fuel clause burden on the regulated electric companies. Finally, the Commission totally disagrees with Piedmont's contention that the CTA jeopardizes its financial integrity and ability to market its securities. As noted above, the Company's chief financial officer testified at the hearing that Piedmont derived more revenues during the test year from the CTA than the total amount of increased revenues originally requested in this general rate case.

For the foregoing reasons, the Commission concludes that the CTA formula is a just and reasonable rate-making tool due to the continuing uncertainty of the gas supply situation and that the CTA should continue to be a part of Piedmont's rates and tariffs. In any event, appropriate modifications to the CTA are presently under consideration by the Commission in Docket Nos. G-9, Sub 131D and G-9, Sub 131E. The Commission finally concludes that the volumes, revenues, gross receipts tax, cost of gas and base margin which are appropriate for future use in the CTA are as follows:

VOLUMES

		MCF
CD-2		28,720,569
LSS-1		7,886,713
Emergency Purchases		2,096,139
PS-2		177,000
Propane Air		62,315
Less: WSS Base		(674,907)
WSS Fuel		(3,504)
Total company supply		38,264,325
North Carolina supply percentage		71%
Total North Carclina supply		27,169,524
Less: Base N.C. company use	62,572	
Less: Base N.C. unaccounted for	496,190	558,762
Total N.C. base sales volumes		26,610,762
Base minimum bill volumes		465,282

REVENUES, COST OF GAS, GROSS RECEIPTS TAX AND BASE MARGIN

		Amount
Gas sales revenues		$59,853,431
Less: Cost of gas	$29,579,614	
Gross Receipts tax	3,591,206	33,170,820
Base margin		$26,682,611

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application of Piedmont Natural Gas Company, Inc., to increase its rates and charges for natural gas utility service rendered to customers in North Carolina, be, and the same is hereby, denied.

2. That, while Piedmont is hereby directed to maintain rates which will produce revenues not to exceed $59,985,122 based upon test year operations, Piedmont shall file, on one day's notice, appropriate tariffs consistent with this Order and the changes deemed just and reasonable herein and incorporated into Appendix A attached hereto.

3. That the petition seeking permission to terminate the CTA filed by Piedmont in Docket No. G-9, Sub 164 and incorporated herein for decision be, and the same is hereby, denied. The CTA, as originally approved in Docket No. G-9, Sub 131 and as modified by subsequent Orders of the Commission shall continue to be a part of Piedmont's rates and tariffs.

ISSUED BY ORDER OF THE COMMISSION.
This 22nd day of February, 1977.

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

Note: For Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. G-5, SUB 102C

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North Carolina, Inc., for an Adjustment of its Rates and Charges) ORDER REQUIRING REFUND

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina on Monday, December 13, 1976, at 11:00 a.m.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding, and Commissioners Ben E. Roney and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, and James M. Day, Boyce, Mitchell, Burns and Smith, P. O. Box 1406, Raleigh, North Carolina

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, and Jesse C. Brake, Associate Attorney General, P. O. Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, N. C. Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On 22 September 1976 the Commission issued its Order Adjusting Rate in the above docket. In that order the Commission denied Public Service's application to increase its seasonal volume variation adjustment factor (VVAF) to $.2835 per mcf effective 18 June 1976. On 11 October 1976 Public Service filed Exceptions and Notice of Appeal to the North Carolina Court of Appeals. On 29 October 1976 Public Service filed with the Court a Petition for Writ of Supersedeas which, on 15 November 1976, the Court allowed as follows:

"The petition filed in this cause on 29 October 1976 and designated petition for writ of supersedeas is allowed as follows:

"That portion of the order entered 22 September 1976 in Docket G-5, Sub 102C, requiring implementation of the refund provisions of Appendix A attached to the order is stayed pending appellate review by this Court; provided, if petitioner fails to perfect its appeal to this Court in accordance with the North Carolina Rules of Appellate Procedure, this stay shall terminate.

"This 15th day of November, 1976."

On 28 December 1976 the Commission filed with the Court of Appeals a Motion seeking Clarification of its 15 November order staying portions of the 22 September Order Adjusting Rate.

On 12 January 1977, the Court entered the following order:

"The order entered in this cause on 15 November 1976 is hereby amended and clarified to read:

"That portion of the order entered 22 September 1976 in Docket No. G-5, Sub 102C, requiring implementation of that portion of the refund provisions of Appendix A which requires specific refunds by credits to bills or refund checks of monies collected prior to 18 June 1976, is stayed pending appellate review by this Court; provided, if the petitioner fails to perfect its appeal to this Court in accordance with the North Carolina Rules of Appellate procedure, this stay shall terminate.

"This 12th day of January, 1977."

By order issued 2 December 1976 the Commission required Public Service to appear on 10 December 1976 to show cause why the company should not be made to refund to its customers those monies collected under the $.2835 per mcf VVAF rate in excess of amounts which the company would have collected had it filed tariffs in accordance with portions of the 22 September order not stayed by the Court of Appeals. The Commission also set for hearing on that date Public Service's application in Docket No. G-5, Sub 102D for an adjustment of its VVAF rate effective 1 November 1976. A separate order has been issued in that docket.

Upon agreement of the parties the hearing was continued until 13 December 1976. The following is a summary of the evidence adduced at the hearing.

Public Service presented the testimony of E. L. Flanagan, Jr., Vice President and Treasurer, and C. Marshall Dickey, Vice President - Gas Supply Services. Mr. Flanagan offered as an exhibit the company's response to ordering paragraph 3 of the Commission's December order requiring the company to file schedules showing computation of an adjustment in the VVAF in accordance with prior Commission orders, including the order of 22 September 1976. He stated that the VVAF thus computed is based on historical and future Transco (Transcontinental Gas Pipe Line Corporation) entitlement periods and makes a refund of overcollections in 1975 and 1976. He further stated that Public Service included base gas injected into Washington Storage Service (WSS) as curtailment and excluded revenues from Rate 20 Transportation Service in its VVAF calculations. Mr. Dickey testified that Washington Storage Service is a long term peak storage facility and that WSS base gas is gas which is put into the storage fields and never withdrawn by the company.

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Staff, presented testimony and exhibits showing his review and recalculation of the VVAF filed by Public Service. Mr. Hatcher stated that the purpose of the VVAF is to track increases or decreases in CD-2 curtailment offset by emergency gas purchases and, since WSS base gas is not curtailment of CD-2 supply, his computations do not exclude base gas injected into WSS. On cross-examination, however, Mr. Hatcher agreed that injections into Washington Storage reduce CD-2 entitlements and that this gas cannot be sold as long as it is in the storage field. Mr. Hatcher also testified that revenues received from Rate 20 - Transportation Service - shown on his Exhibit 5 should be rolled into the VVAF.

Donald E. Daniel, co-ordinator of the gas and water section of the Accounting Division of the Commission Staff, also testified concerning his examination of the schedules and exhibits filed by Public Service in Docket No. G-5, Sub

102D. He stated that the application filed 12 November continued the use of annualization of entitlement period volumes in estimating annual volumes contrary to the method prescribed in the Commission's Order of 22 September. Mr. Daniel stated that the company's response to the Commission's 2 December order was in partial compliance with the requirements of the September 22 order. Mr. Daniel stated, however, that the company's filing failed to incorporate the specific refund provisions of Appendix A to that order and instead returned overcollections through an increment in the VVAF rate. Mr. Daniel testified that, since the refunds involved in these dockets are substantial and relate to overcollections in 1975 as well as 1976, he believes consideration should be given to recording the refunds as a reduction of retained earnings in the year in which the overcollections occurred. In connection with Mr. Hatcher's testimony, Mr. Daniel also stated that in approving the tariff for transportation service the Commission had required that revenues therefrom be included in adjusting the VVAF. Mr. Daniel further stated that to treat WSS base volumes as curtailment is inconsistent with prior Commission decisions involving both Public Service and other gas companies.

Based on the orders of the Court of Appeals and the entire record in this matter, the Commission concludes that Public Service should immediately refund to its customers overcollections from 18 June 1976 through 31 October 1976, in the amount of $1,278,641 as shown in Hatcher Schedule 1, refund of the remaining $147,715 in overcollections prior to 18 June 1976 shown on this schedule having been stayed pending appellate review. The Commission further concludes that the foregoing refunds should be made either by credits to bills or refund checks in accordance with the provisions of Appendix A to the Commission's Order of 22 September 1976 in this docket.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Public Service of North Carolina, Inc. shall refund to its customers $1,278,641 in overcollections from 18 June 1976 through 31 October 1976 by credits to bills or refund checks in accordance with Appendix A to the Commission's Order of 22 September 1976 in this docket, such refunds to be made within sixty (60) days of the date of this order.

2. That Public Service shall file within thirty (30) days after such refund a report accounting for the distribution of the overcollections.

3. That Public Service shall give to each of its customers appropriate notice of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of January, 1977.

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

DOCKET NO. G-5, SUB 102D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North Carolina, Inc., for an Adjustment of its Rates and Charges) ORDER ADJUSTING RATE

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina on Monday, December 13, 1976, at 11:00 a.m.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding, and Commissioners Ben E. Roney and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, and James M. Day, Boyce, Mitchell, Burns and Smith, P. O. Box 1406, Raleigh, North Carolina

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, and Jesse C. Brake, Associate Attorney General, P. O. Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, N. C. Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On 2 December 1976 the Commission issued an Order accepting the $.0253 per mcf volume variation adjustment factor (VVAF) filed by Public Service Company of North Carolina, Inc., on 12 November 1976 in Docket No. G-5, Sub 102D, and setting the matter for investigation and hearing on 10 December 1976. The Commission also ordered Public Service to appear on that date and show cause why the company should not refund to its customers all amounts collected in Docket No. G-5, Sub 102C, since 18 June 1976 in excess of those amounts which it would have collected under rates filed in accordance with portions of the Commission's order of 22 September 1976 which have not been stayed by order of the Court of Appeals in that docket. A separate order has been issued in that docket.

Upon agreement of the parties, the hearing was continued to 13 December 1976. Public Service presented the testimony of E. L. Flanagan, Jr., Vice President and Treasurer, and C. Marshall Dickey, Vice President - Gas Supply Services. Mr. Flanagan offered as an exhibit the company's response to ordering paragraph 3 of the Commission's December order requiring the company to file schedules showing computation of an adjustment in the VVAF in accordance with prior Commission orders, including the order of 22 September 1976. He stated that the VVAF thus computed is based on historical and future Transco (Transcontinental Gas Pipe Line Corporation) entitlement periods and makes a refund of overcollections in 1975 and 1976. He further stated on cross-examination that Public Service included base gas injected into Washington Storage Service (WSS) as curtailment and excluded revenues from Rate 20 Transportation Service-in its VVAF calculations. Mr. Dickey testified that Washington Storage Service is a long term peak storage facility and that WSS base gas is gas which is put into the storage fields and never withdrawn by the company.

Parker L. Hatcher, Jr., Utilities Engineer in the Gas Section of the Commission Staff, presented testimony and exhibits showing his review and recalculation of the VVAF filed by Public Service. Mr. Hatcher stated that the purpose of the VVAF is to track increases or decreases in CD-2 curtailment offset by emergency gas purchases and, since WSS base gas is not curtailment of CD-2 supply, his computations do not exclude base gas injected into WSS. On cross-examination, however, Mr. Hatcher agreed that injections into Washington Storage reduce CD-2 entitlements and that this gas cannot be sold as long as it is in the storage field. Mr. Hatcher also testified that the VVAF rate necessary to protect margin loss due to changing curtailments beginning 1 November 1976 should be $.1302 per mcf, assuming no adjustments for overcollections or transportation revenues, and that revenues received from Rate 20 Transportation Service - shown on his Exhibit 5 should be rolled into the VVAF.

Donald E. Daniel, co-ordinator of the gas and water section of the Accounting Division of the Commission Staff, also testified concerning his examination of the schedules and exhibits filed by Public Service in Docket No. G-5, Sub 102D. He stated that the application filed 12 November continued the use of annualization of entitlement period volumes in estimating annual volumes contrary to the method prescribed in the Commission's Order of 22 September. Mr. Daniel stated that the company's response to the Commission's 2 December order was in partial compliance with the requirements of the September 22 order. Mr. Daniel stated, however, that the company's filing failed to incorporate the specific refund provisions of Appendix A to that order and instead returned overcollections through an increment in the VVAF rate. Mr. Daniel testified that, since the refunds involved in these dockets are substantial

and relate to overcollections in 1975 as well as 1976, he believes consideration should be given to recording the refunds as a reduction of retained earnings in the year in which the overcollections occurred. In connection with Mr. Hatcher's testimony, Mr. Daniel also stated that in approving the tariff for transportation service the Commission had required that revenues therefrom be included in adjusting the VVAF. Mr. Daniel further stated that to treat WSS base volumes as curtailment is inconsistent with prior Commission decisions involving both Public Service and other gas companies.

Based upon the evidence presented at the hearing, the filings 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 by its application of 12 November 1976 in this docket Public Service is seeking to reduce its VVAF rate from $.2835 to $.0253 per mcf.

3. That the $.0253 VVAF rate is computed on the basis of annualized entitlement period volumes with an adjustment for overcollections from 20 February 1975 through 31 October 1976, instead of refunds by credits to bills or refund checks ordered by the Commission in Docket No. G-5, Sub 102C, and that these overcollections were calculated utilizing annualization techniques.

4. That the ($.0412) VVAF rate shown in Public Service's response to the Commission's order of 2 December 1976 is computed on the basis of historical and future Transco entitlement periods with an adjustment for overcollections from 20 February 1975 through 31 October 1976 instead of refunding as previously ordered.

5. That base gas injected into Washington Storage Service is not curtailment of CD-2 gas supply and has never been treated as such by this Commission in calculating the VVAF.

6. That a VVAF rate of $.1302 per mcf is the increment exclusive of adjustments required in order to allow Public Service to recover forecast margin losses for the 12 month period beginning 1 November 1976 due to curtailment projections.

7. That the Commission's approval of Rate 20 Transportation Service - provided that revenues from such service, net of gross receipts tax plus interest at the statutory rate, be included in computing the VVAF.

Whereupon the Commission reaches the following

CONCLUSIONS

Because they do not comply with prior orders, the Commission has concluded that the schedules filed by Public Service in this docket should be rejected and that the overcollections computed through 31 October 1976 should be refunded in Docket No. G-5, Sub 102C, pursuant to a separate order, leaving only the VVAF increment of $.1302 per Mcf effective 1 November 1976.

The Commission further concludes that Public Service should include in the VVAF computation $213,724 in revenues net of gross receipts tax plus interest at the statutory rate through 31 October 1976 collected under Rate 20 Transportation Service as shown in Hatcher Schedule 5. The Commission recognizes that the inclusion of revenues from transportation service is not entirely consistent with its view that the purpose of the VVAF is to track increases or decreases in CD-2 curtailment. Nevertheless, the Commission concluded at the time Rate 20 was approved that the inclusion of these revenues in the calculation of the VVAF was an appropriate method of accounting for what would otherwise be a windfall to the company with no corresponding benefit to the VVAF ratepayers.

To the extent that there is any overlapping in the Commission's treatment of Rate 20 revenues or WSS base gas in this docket and the company's filing in Docket No. G-5, Sub 119, its general rate case, the Commission will make adjustments to avoid duplicity in the latter docket.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the schedules filed by Public Service Company of North Carolina, Inc., on 12 November 1976 and 8 December 1976 in Docket No. G-5, Sub 102D, be, and hereby are, rejected.

2. That Public Service shall file revised tariffs reflecting a VVAF increment of $.1302 per mcf to be effective on one day's notice.

3. That Public Service shall give appropriate notice to its customers of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 20th day of January, 1977.

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

DOCKET NO. G-5, SUB 102D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Public Service Company of North Carolina, Inc., for an Adjustment of its Rates and Charges	) SUPPLEMENTAL ORDER) REQUIRING FURTHER) REFUND

BY THE COMMISSION: On 20 January 1977 the Commission issued an Order in the above docket requiring Public Service Company of North Carolina, Inc. to file revised tariffs reflecting a VVAF increment of $.1302 per mcf to be effective on one day's notice. In that order the Commission found and concluded that Public Service should include in the VVAF computation $213,784 in revenues net of gross receipts tax plus interest at the statutory rate through 31 October 1976 collected under Rate 20 - Transportation Service - pursuant to Commission approval of Rate 20 in Docket No. G-5, Sub 111.

On 24 January 1977 Public Service filed revised tariffs reflecting the $.1302 per mcf VVAF increment but failing to incorporate the $213,784 in Rate 20 revenues. The Commission is of the opinion that Public Service should now make an additional filing in order to fully comply with the above order.

IT IS, THEREFORE, ORDERED as follows:

1. That Public Service Company of North Carolina, Inc., shall file further revised tariffs reflecting a VVAF increment calculated to refund $213,784 in revenues, net of gross receipts taxes plus interest at the statutory rate, collected under Rate 20 - Transportation - through 31 October 1976, which increment shall remain in effect until the $213,784 has been refunded.

2. That upon the full refund of $213,784, as required in paragraph (1) above, Public Service shall file revised tariffs effective on one day's notice.

3. That, within thirty (30) days after the $213,784 has been refunded, Public Service shall file an accounting which shows that the requirements of Paragraph 1 above have been met.

4. That future VVAF filings shall include all revenues collected under Rate 20 - Transportation - net of gross receipts tax plus interest at the statutory rate.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of February, 1977.

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

DOCKET NO. G-5, SUB 102D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North Carolina, Inc., for an Adjustment of its Rates and Charges) FURTHER ORDER

BY THE COMMISSION: On 10 February 1977 Public Service Company of North Carolina, Inc. (Public Service or the Company) filed Notice of Appeal and Exceptions to the Commission's Order Adjusting Rate issued January 20, 1977 in the above docket. Public Service also filed a Motion that the Commission set the Exceptions for oral argument or further hearing and thereafter rewrite Appendix A to the Commission's Order of 22 September 1976 in Docket No. G-5, Sub 102C, now on appeal, so as to make the following changes:

"a. Provide for the true-up of all periods through October 31, 1976, the end of the Transco annual entitlement period, so that a final dollar amount of over or undercollections can be determined for the past.

"b. Provide for an annual true-up through October 31st of each year thereafter.

"c. Provide for increments to become effective on each November 1st based on projected annual entitlements.

"d. Provide for interim adjustments in the increment as revisions are made in projected entitlements.

"e. Eliminate gas in Washington storage from the gas delivered to Public Service or 'supply' available to it.

"f. Eliminate revenues from transportation of gas for customers from the WAF and give consideration to such tariff revenues, if any, in the general rate case of the Company,

"g. Return to the original WAF provisions so as to include over or under collections in future WAF adjustments rather than to refund by credits to bills."

Having reviewed the Exceptions, the Motion and the entire record in this matter, the Commission finds and concludes as follows:

1. That its Order Requiring Refund, issued on 20 January 1977 in Docket No. G-5, Sub 102C, provides for a WAF true-up of all periods through 31 October 1976 and determines that the final dollar amount of overcollections for the period prior to 18 June 1976 is $1,147,715 and for the period 18 June 1976 through 31 October 1976 is $1,278,641.

2. That in its Order Adjusting Rate issued 20 January 1977 in Docket No. G-5, Sub 102D, the Commission determined that $213,784, consisting of Rate 20 Transportation Service - revenues plus interest through 31 October 1976, should be included in the VVAF computation.

3. That its Order Adjusting Rate contemplates a VVAF increment to become effective on 1 November of each year, based on projected annual entitlements, and an annual true-up through 31 October of each year thereafter.

4. That future overcollections, determined in a true-up at the end of each annual Transco entitlement period, should be refunded by credits to bills or checks; and that Public Service should be required to retain billing records to insure that each customer will receive his share of the refund based on actual usage.

The Commission further finds and concludes that its orders of January 20, 1977 in Docket Nos. G-5, Subs 102C and 102D should be reaffirmed and that to the extent not allowed herein the motion of Public Service should be denied.

IT IS, THEREFORE, ORDERED as follows:

1. That upon final refund of the total dollar amount of overcollections determined by order issued 20 January 1977 in Docket No. G-9, Sub 102C, the volume variation adjustment factor (VVAF) approved for Public Service Company of North Carolina, Inc., shall be deemed trued-up through 31 October 1976.

2. That future VVAF increments, beginning with the $.1302 per mcf increment established in this docket, shall be based on annual entitlements and shall become effective as of each 1 November and further that there shall be a true-up of the VVAF as of 31 October of each year thereafter.

3. That Public Service shall retain billing records so that each customer will be assured of receiving, by credit to bill or refund check, his share based on actual usage of any overcollections determined in a true-up at the end of each entitlement period.

4. That the Order Adjusting Rate issued 20 January 1977 in the above docket, is hereby reaffirmed, and, to the extent not allowed herein, the Motion of Public Service, filed 10 February 1977, is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 15th day of April, 1977.

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

DOCKET NO. G-5, SUB 119
DOCKET NO. G-5, SUB 123

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company) ORDER GRANTING
of North Carolina, Inc., for an) PARTIAL INCREASE
Adjustment of its Rates and Charges) IN RATES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 3, 4, and 5, 1976 and December 7, 8, 9, and 10, 1976

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; and Commissioners Ben E. Roney 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

J. Mack Holland, Mullen, Holland and Harrell, P. A., Attorneys at Law, Box 488, Gastonia, North Carolina 28052

For the Intervenors:

Jerry B. Fruitt and Jesse C. Brake, Associate Attorneys General, Post Office Box 629, Raleigh, North Carolina
For: The Using and Consuming Public

William I. Thornton, Jr., City of Durham Attorney, Post Office Box 2251, Durham, North Carolina
For: The City of Durham

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

For the Intervenor-Protestant:

Thomas R. Eller, Jr., Hovis, Hunter and Eller, Attorneys at Law, 801 American Building, Charlotte, North Carolina 28286
For: North Carolina Textile Manufacturers Association, Inc.

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, and Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On July 12, 1976 Public Service Company of North Carolina, Inc. (Public Service or Company), filed an application with the Commission for authority to increase its rates and charges to produce annually approximately $3,676,272 in additional general revenues and $90,000 in additional miscellaneous service revenues. Public Service proposed that the increase become effective August 12, 1976.

By Order issued August 9, 1976 the Commission suspended the proposed rates and set the matter for investigation and hearing and declared the proceeding to be a general rate case. The Order established the test period as the 12 months ending March 31, 1976. The Commission further required that Public Service give notice of the application to its customers in accordance with the provisions of the Order and the Appendix attached to said Order. The hearing was scheduled to begin November 3, 1976.

On September 29, 1976 the City of Durham filed Petition to Intervene which was allowed by the Commission's Order of October 4, 1976. On October 1, 1976 the Attorney General filed Notice of Intervention which was recognized by Commission Order of the same date. On October 6, 1976 North Carolina Textile Manufacturers Association, Inc. (Textile Manufacturers), filed Notice of Intervention and Protest which was allowed by the Commission's Order of October 11, 1976. On October 13, 1976 Petition to Intervene was filed by Brick Association of North Carolina (Brick Association) which was allowed by the Commission's Order of October 18, 1976.

On August 18, 1976 Public Service filed a report on depreciation rates requesting certain changes in depreciation rates and this matter was assigned Docket No. G-5, Sub 123.

On October 21, 1976 the Commission issued an Order approving certain depreciation rates indicating, among other things, that the proposal by Public Service that the remaining life of certain accounts be set at 25 years because of gas supply should not be considered as an item influencing depreciation rates at that time.

On October 25, 1976 Public Service filed Exceptions to the Commission's Order and requested that the Commission consolidate that docket with the pending general rate case docket. By Order of October 25, 1976, the Commission

consolidated the depreciation docket with this general rate case.

On November 2, 1976 the Commission entered an Order denying Motions for Consolidation filed by the Intervenors in this proceeding relating to Docket No. G-5, Sub 124, an application filed on October 8, 1976 by Public Service relating to authority to increase rates by tracking increased cost of gas resulting from action by the Federal Power Commission under the provisions of G. S. 62-133(f).

The hearing began as scheduled. Public Service presented the testimony of Charles E. Zeigler, President and Chief Executive Officer of Public Service; Crawford Marshall Dickey, Vice President-Gas Supply Services; Joseph Francis Noon, Vice President in Engineering and Operations Services; E. L. Flanagan, Jr., Vice President and Treasurer of Public Service; Richard S. Johnson of Stone & Webster Management Consultants, New York, New York; John D. Russell, Vice President of Associated Utility Services, Inc., Milwaukee, Wisconsin; W. Clyde Smith, Senior Vice President-Finance, Administration, Public Service; Joseph F. Brennan, President of Associated Utility Services, Inc., Cherry Hill, New Jersey; and Franklin D. Sanders, Vice President and Director of First Boston Corporation, New York, New York.

The Attorney General called Kermit Hoffman, an employee of Public Service, to explain certain information furnished to the Attorney General.

Brick Association presented the testimony of H. B. Foster, President and General Manager of Statesville Brick Company; Vernon Isenhour, President of Sanford Brick Corporation; Frank H. Borden, President of Borden Brick and Tile Company; and the written statement of Ted W. Tysinger.

The Commission Staff presented the testimony of Raymond J. Nery, Chief, Gas Section, Engineering Division; M. Dell Coleman, Director of Accounting Division; Parker L. Hatcher, Jr., Utilities Engineer; Henry Randolph Currin, Jr., Senior Operations Analyst in the Operations Analysis Section; Eugene H. Curtis, Jr., Operations Engineer; and Jesse Kent, Jr., Accountant for the North Carolina Utilities Commission.

Proposed findings, conclusions, and briefs were filed by the parties subsequent to the hearing. Based upon the entire record of this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a duly franchised public utility providing natural gas service in its franchise area in North Carolina cities and communities and is properly before the Commission in this proceeding for a determination as to the justness and reasonableness of its proposed rates and charges as

regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the proposed rates would produce additional general revenues of approximately $3,676,272 and $90,000 in additional miscellaneous service revenues on an annual basis.

3. That the test period set by the Commission and utilized by all parties in this proceeding is the 12 months ending March 31, 1976.

4. That the original cost of Public Service's gas plant in service used and useful in the distribution of gas in North Carolina is $114,500,552. The accumulated depreciation associated with the gas plant in service is $27,246,939. The original cost of Public Service's net gas plant in service is $87,253,613, including the new LNG plant which is found to be used and useful and operational prior to the close of the hearing.

5. That the reasonable allowance for working capital is $4,442,331.

6. That the reasonable replacement cost less depreciation of Public Service's plant used and useful in providing gas service in North Carolina is $143,888,252.

7. That the fair value of Public Service's plant used and useful in providing gas service in North Carolina should be derived by giving a 70% weighting to the reasonable original cost less depreciation of Public Service's plant in service and 30% weighting to the depreciated replacement cost of Public Service's utility plant. By this method, using the depreciated original cost of $87,253,613 and the depreciated replacement cost of $143,888,252, the Commission finds that the fair value of Public Service's utility plant devoted to gas service in North Carolina is $104,244,005. This fair value includes a reasonable fair value increment of $16,990,392.

8. That the fair value of Public Service's plant in service to its customers within the State of North Carolina of $104,244,005 plus the reasonable allowance for working capital of $4,442,331 yields a reasonable fair value of Public Service's property in service to North Carolina customers of $108,686,336.

9. That the approximate total operating revenues of Public Service Company of North Carolina, Inc., for the test period are $54,140,128 under present rates and under proposed rates would have been $57,906,400.

10. That the level of Public Service's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $46,925,122, which includes the amount of $3,401,292 for

actual investment currently consumed through reasonable actual depreciation.

11. That the capital structure which is proper for use in this proceeding is the following:

Item	Percent
Debt	57.21%
Preferred Stock	8.90%
Common Equity	29.56%
Cost-Free Capital	4.33%
Total	100.00%

12. That when the excess of the fair value rate base over the 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	Percent
Debt	48.27%
Preferred Stock	7.51%
Common Equity	40.57%
Cost-Free Capital	3.65%
Total	100.00%

13. That the Company's proper embedded costs of debt and preferred stock are 7.07% and 6.65%, respectively. The fair rate of return which should be applied to the fair value rate base is 7.28%. This return on Public Service's fair value property of 7.28% will allow a return on fair value equity of 8.30% after recovery of the embedded costs of debt and preferred stock. A return of 8.30% on fair value equity results in a return of 13.50% on original cost common equity.

14. That Public Service should be allowed an increase in additional annual gross revenues not exceeding $1,514,311 in order for it to have an opportunity through efficient management to earn the 7.28% 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.

15. That the rates and charges attached hereto as Appendix A are found to be just and reasonable to meet the revenue requirement determined herein.

16. That the volume variation adjustment factor (VVAF) is a reasonable and necessary part of Public Service's rates. That the base period supply volumes and base period margin to be used in the determination of future VVAF's are 25,551,245 MCF and $27,334,512, respectively.

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. 4

Company witness Flanagan and Staff witness Kent presented the same amount for gas plant in service but different amounts for its associated accumulated depreciation as follows:

Item	Company Witness Flanagan	Staff Witness Kent
Original cost of gas plant in service	$114,500,552	$114,500,552
Less: Accumulated depreciation	27,657,340	27,246,939
Net original cost of gas plant in service	$ 86,843,212	$ 87,253,613

Although both accounting witnesses are in agreement concerning the original cost of gas plant in service, several Intervenors objected to the inclusion of the cost (approximately $13 million) of the LNG (liquefied natural gas) facility in the cost of plant in service. Collectively, their objections are as follows:

(1) That the LNG facility is an imprudent or excessive investment on which Public Service should not be allowed to earn a return.

(2) That the LNG facility is not used and useful in the provision of service to Public Service's ratepayers.

(3) That the LNG facility was not constructed pursuant to a certificate of public convenience and necessity.

(4) That in determining changes in Public Service's property up to the time the hearing is closed only the value of the properties that were used and useful at the end of the test period can be considered and, therefore, that the cost of additional properties put into operation after the end of the test period cannot be included in plant in service.

The Commission will now discuss each of these objections.

Several Intervenors stated that the LNG facility was, in effect, an excessive or imprudent investment because it produces no additional gas supply and actually consumes gas in the process of operation, because the LNG facility operating costs will increase the cost of gas substantially, and because no competitive bids were obtained to determine the lowest possible construction cost. From the evidence

presented, the Commission recognizes that the purpose of the LNG facility is not to produce additional gas supplies but to shift the available supply from periods of relatively low demand to periods where the demand cannot be met by current supply and to insure stability of the distribution system in the event of line breaks. To criticize the prudence of the facility investment for not fulfilling a purpose for which it was never intended is without merit. Furthermore, since no energy transformation process is 100% efficient, the facility cannot be validly criticized as imprudent for consuming gas during operation. It is also apparent that the cost of gas processed through the LNG facility will be somewhat higher than the cost of ordinary pipeline gas, but the overriding consideration, regardless of cost, is that gas supplies will be available to high priority customers at times of peak demand, whereas the demand could not otherwise be met without the LNG facility. The record also shows that no competitive bids or negotiations were conducted for construction of the facility other than with Chicago Bridge and Iron. In the absence of contrary evidence it must be assumed that Public Service accepted a construction bid which it considered reasonable and the Commission cannot, therefore, conclude that any other bids would have been more reasonable. Based on the previous findings, the Commission concludes that the LNG facility is not an excessive or imprudent investment.

The second objection to the inclusion of the cost of LNG facility in the original cost of gas plant in service is that the facility is not used and useful in providing service to ratepayers. It is agreed by all parties that the LNG facility was not operational at the end of the test period and also that the facility commenced the storing of gas in September 1976 before the conclusion of the hearing. At the conclusion of the hearing apparently no stored gas from the LNG facility had been reinjected into the distribution system. The question which has arisen is whether the LNG facility is used and useful if no stored gas had be reinjected into the system by the time of conclusion of the hearing. The Commission believes that the storage process is an integral feature of the operation of the LNG facility and the fact that no stored gas had been reinjected into the system does not render it not used and useful. The Commission, therefore, concludes that the LNG facility is used and useful in serving the ratepayers of Public Service.

The third objection raised by the Intervenors is that the LNG facility was not constructed pursuant to a certificate of public convenience and necessity. The Commission has previously concluded that the LNG facility is not an imprudent nor excessive investment. In addition, the Commission's interpretation of G.S. 40-5-101 is that a certificate of public convenience and necessity is not required for additional investment made by a gas distribution company. The Commission, therefore, concludes that a certificate of public convenience and necessity was not required for the construction of the LNG facility and,

therefore, that the cost of this facility cannot be excluded from original cost net investment on this basis.

The fourth objection concerns the question of whether the cost of the LNG facility can be properly included in the rate base since only changes in the value of properties that were used and useful by the public utility at the end of the test period may be considered and, therefore, that the Commission is not permitted to add additional properties put into operation after the end of the test period. G.S. 62-133(c), as amended by the 1975 General Assembly, requires the Commission to consider relevant material and competent evidence showing actual changes in costs, revenues, or value of the utility's property through the close of the hearing. Therefore, our interpretation of the statute does not prevent the inclusion of the cost of the LNG facility in the rate base.

The Commission, therefore, concludes that the cost of the LNG facility is properly includable in the rate base and that the original cost of Public Service's gas plant in service is $114,500,552.

Company witness Flanagan and Staff witness Kent disagreed on the amount of the end-of-period balance in accumulated depreciation, the remaining determinant of the net original cost of gas plant in service. Company witness Flanagan claimed $27,857,340 as the proper balance in the accumulated depreciation account and Staff witness Kent claimed $27,246,939 as the proper balance. The difference of $610,401 in accumulated depreciation amounts is attributable to adjustments made by Staff witness Kent as a corollary to his adjustments to test-period depreciation expense. Staff witness Kent testified that the basis for his adjustments reducing the accumulated depreciation balance (also depreciation expense) was Staff witness Nery's recommendations regarding modification of the Company's proposed depreciation rates (G-5, Sub 123, which was consolidated with this general rate case). The Commission has elsewhere evaluated the depreciation rates and reached its conclusions regarding the proper depreciation rates for use in this proceeding and does not deem it necessary to repeat those findings and conclusions here.

The Commission recognizes that the purpose of Staff witness Kent's adjustments is to state the end-of-period accumulated depreciation balance in conformity with the depreciation rate recommendations of the Commission's Engineering Staff (and approved in Evidence and Conclusions for Finding of Fact No. 10) as contrasted to the Company's proposed depreciation rates included in this filing. The Commission, therefore, concludes that these adjustments are proper and that the correct end-of-period balance in accumulated depreciation is $27,246,939. The Commission further concludes that the net original cost of gas plant in service for use in this proceeding is $87,253,613.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Company witness Flanagan and Staff witness Kent each presented a different amount for the working capital allowance. The following tabular summary shows the amounts presented by each witness:

Item	Company Witness Flanagan	Staff Witness Kent
Cash	$ 1,237,646	$ 1,237,646
Materials and supplies	3,766,788	3,766,788
Minimum bank balance	2,000,000	2,000,000
Average prepayments	245,034	223,973
Average tax accruals	(2,167,767)	(2,167,767)
Customer deposits	-	(618,309)
Total	$ 5,081,701	$ 4,442,331

The two witnesses are in agreement regarding the cash, materials and supplies, minimum bank balances, and average tax accruals components of the working capital allowance. The differences, which the Commission will now discuss, occur in average prepayments and customer deposits.

Company witness Flanagan included $245,034 of average prepayments in his computation of the working capital allowance while Staff witness Kent included $223,973 for this item. Staff witness Kent testified that his three adjustments reduce Company witness Flanagan's average prepayments balance by $21,061. Staff witness Kent's first adjustment reducing average prepayments by $15,388 was necessary in order to properly state the average prepayments component of the working capital allowance. This adjustment was due to the existence of accrued liability balances for insurance premiums which were not considered by Mr. Flanagan in determining his average prepayments. The Commission concludes that the average insurance prepayments should be reduced by the accrued liability for insurance premiums of $15,388.

Staff witness Kent's second adjustment reduced average prepayments by the amount of average prepaid insurance on appliance inventory ($1,174) and on appliances in transit ($270). Staff witness Kent's Exhibit 2-1 showed that these average prepaid insurance balances related to the purchase and sale of gas operated appliances. These operations are not essential to the distribution of gas to North Carolina customers and, therefore, should be excluded from the rate-making process. The Commission concludes that average insurance prepayments on appliance inventory and appliances in transit of $1,174 and $270, respectively, are nonutility in nature and should be excluded in the fixing of rates. This treatment is consistent with the elimination of insurance expense on appliances from operation and maintenance expense under Evidence and Conclusions for Finding of Fact No. 10.

Staff witness Kent's third adjustment reduces average insurance prepayments by $4,229 for life insurance premiums on Company officers and key men. In his Exhibit 2-1, he treated these prepayments as nonutility in nature and he excluded them from his determination of working capital. The Commission concludes that average prepayments should be reduced by $4,229 (the amount of average prepaid insurance applicable to life insurance premiums on Company officers and key men). This reduction of average prepayments for life insurance premiums is consistent with the removal of life insurance premiums expense from test period operation and maintenance expense found proper under Evidence and Conclusions for Finding of Fact No. 10. Based on the previous discussion, the Commission concludes that the appropriate amount of average prepayments to be used in the computation of the working capital allowance is $223,973.

The final area of difference between the two witnesses in the computation of the working capital allowance is end-of-period customer deposits. Company witness Flanagan did not consider customer deposits in his computation of the working capital allowance while Staff witness Kent deducted end-of-period customer deposits in his computation of the working capital allowance. Staff witness Kent has testified that the Company should be allowed to recover only the interest paid or accrued on customer deposits. Staff witness Kent further testified that his deduction of end-of-period customer deposits from the allowance for working capital and his adjustment including interest on customer deposits in test-period operation and maintenance expense allows Public Service to recover only the cost of customer deposits (Evidence and Conclusions for Finding of Fact No. 10). The Commission agrees that the Company should be allowed to recover only the cost of these customer supplied funds. Therefore, we conclude that Staff witness Kent's reduction of the working capital allowance by $618,309 of end-of-period customer deposits is proper.

The Commission concludes, consistent with other recent rate case decisions, that the formula method of determining the working capital allowance should be used in this case. The components of the working capital allowance found proper for use in this proceeding are as follows: cash (1/8 of operation and maintenance expense), $1,237,646; materials and supplies, $3,766,788; minimum bank balances, $2,000,000; average prepayments, $223,973; average tax accruals, ($2,167,767); and customer deposits, ($618,309). The Commission concludes that the proper amount of the working capital allowance is $4,442,331.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6, 7, AND 8

The term "replacement cost" envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in utility plant. Company witness Russell, a consultant to Public Service,

testified with respect to his determination of the net trended original cost valuation of Public Service's properties used and useful in providing gas service to North Carolina as of March 31, 1976. Witness Russell calculated his net trended original cost by computing a reproduction cost new from the surviving original cost dollars, a replacement cost which corrects plant in service for economies of scale, and a condition percent based on an 8% present worth analysis as well as a physical inspection of plant in service for calculating accrued depreciation.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the reproduction cost new and replacement cost as calculated by Company witness Russell. The Commission concurs with Staff witness Curtis that the cost of the LNG facility in Cary, North Carolina, less its accrued depreciation to date, should be added into the fair value rate base. Accrued depreciation to be deducted from the replacement cost was calculated differently by Staff witness Curtis and Company witness Russell. Staff witness Curtis calculated a condition percent based on the book reserve for calculating accrued depreciation while Company witness Russell utilized an 8% present worth analysis for the majority of the accounts. The Commission concurs that a condition percent based on the book reserve is appropriate in that Company witness Russell's 8% condition percent methodology understates the depreciation and overstates the condition percent.

The Commission concludes that the reasonable replacement cost less depreciation of Public Service's gas utility plant in service is $143,888,252.

Having determined the appropriate original cost less depreciation to be $87,253,613 and the reasonable estimate of net replacement cost of such plant to be $143,888,252, the Commission must determine the fair value of Public Service's net plant in service.

Company witness Russell and Staff witness Curtis both recommended that a weighting of 70% be applied to the net original cost and a 30% weighting be applied to the net replacement cost. The Commission concludes that these weightings are appropriate. By weighting the original cost less depreciation of $87,253,613 by a 70% factor and the replacement cost less depreciation by a 30% factor, the fair value of Public Service's utility plant in North Carolina is $104,244,005. This fair value calculation includes a reasonable fair value increment of $16,990,392.

The fair value of Public Service's plant in service to its customers in North Carolina of $104,244,005 plus the reasonable allowance for working capital of $4,442,331 yields a reasonable value of Public Service's property in service to North Carolina customers of $108,686,336.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Flanagan and Staff witness Kent presented testimony concerning the appropriate level of operating revenues after accounting and pro forma adjustments. Both witnesses are in agreement that test-period revenues from gas sales are $53,949,016 and that other operating revenues are $219,792. The Commission recognizes that the test-period other operating revenues include $28,680 of transportation revenues applicable to 533 gas. The Commission finds that these revenues are properly includable in the calculation of the VVAF and therefore deems it inappropriate to include these transportation revenues in the operating revenues of this rate case proceeding. The Commission concludes that the proper level of test year revenues is $54,140,128 comprised of revenues from gas sales of $53,949,016 and other operating revenues in the amount of $191,112.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witness Flanagan and Staff witness Kent presented testimony and exhibits showing the level of operating revenue deductions which they believe should be used by the Commission for the purpose of fixing Public Service's rates in this proceeding.

The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Flanagan	Staff Witness Kent
Purchased gas	$24,799,035	$24,716,415
Operation and maintenance expense	9,901,163	9,824,631
Depreciation	4,011,693	3,401,292
Taxes - other than income	4,853,751	4,853,751
Income taxes - state and federal	3,810,969	4,144,536
Total operating revenue deductions	$47,376,611	$46,940,625

The first item of difference in the operating revenue deductions shown above concerns the cost of purchased gas. Company witness Flanagan proposed an adjustment to annualize the cost of purchased gas based on the end-of-period level rates. Staff witness Kent testified that his examination of the Company's work papers supporting this adjustment revealed a computational error in the Company's calculation of the annualized LGA demand charge. The effect of this error was an overstatement, by the Company, of the cost of purchased gas by $82,620. Staff witness Kent's downward adjustment of $82,620 corrects this error. The Commission concludes that Staff witness Kent's adjustment is proper and that the cost of purchased gas to be included as an

operating revenue deduction in this proceeding is $24,716,415.

The second component of operating revenue deductions on which the two witnesses disagree is the proper amount of operation and maintenance expense. Company witness Flanagan presented an amount of $9,901,163. Staff witness Kent presented the amount of $9,824,631 as operation and maintenance expense. The difference of $76,532 is comprised of the following items:

1.	Cost of regulators		$(14,560)
2.	Life insurance premiums		(8,274)
3.	Insurance premiums on merchandise inventory and in transit:		
	Appliance inventory	$(2,460)	
	Appliances in transit	(435)	(2,895)
4.	Civic club dues		(913)
5.	Appliance sales advertising		(41,537)
6.	Computer lease and maintenance contract		(32,985)
7.	Interest on customer deposits		24,632
	Total		$(76,532)

The Commission will now discuss each of the preceding items comprising the $76,532 difference in the level of operating and maintenance expense proposed by each of the witnesses.

The first item removes the cost of certain regulators purchased during the test period. Although the cost of these regulators should have been capitalized, the Company inadvertently recorded the $14,560 as an expense. The effect of this was to overstate test-period operating expenses. Staff witness Kent's adjustment corrects the overstatement of operation and maintenance expense by removing the $14,560 cost of the regulators. The Commission concludes that this adjustment is proper.

The second Staff adjustment removes $8,274 of life insurance premiums from test-period operation and maintenance expense. Staff witness Kent testified that Public Service pays the premiums and is the beneficiary of life insurance contracts on certain key men and officers of the Company. He further testified that the ratepayer would not receive any benefit for the expenses incurred. The Commission concludes that the test-period insurance expense applicable to officers and key men should be excluded from operation and maintenance expense and, therefore, that Staff witness Kent's downward adjustment of $8,274 is proper.

The third Staff adjustment of $2,895 eliminates the test-period insurance expense applicable to appliance inventory and to appliances in transit. Staff witness Kent testified that all revenues and expenses associated with the sale of appliances are nonutility items and therefore should be excluded for rate-making purposes. The Commission concludes that Staff witness Kent's adjustment eliminating from the test-period insurance expense of $2,895 applicable to appliance inventory and appliances in transit is proper.

The fourth adjustment eliminates $913 of payments and contributions to community service organizations. Staff witness Kent testified that the expenditures were not related to the provision of service to customers and should, therefore, not be included in test-period operating expenses. The Commission concludes that the payments and contributions to community service organizations are not necessary for the purpose of providing service to customers. Therefore, to include these expenditures in test-period operating expenses would be to require customers to make involuntary contributions (through the payment of rates) to organizations determined by Public Service. The Commission, therefore, concludes that Staff witness Kent's adjustment of $913 to eliminate these expenditures from operating expenses is proper.

The fifth adjustment made by Staff witness Kent reduced operation and maintenance expense by $41,537 for sales advertising expense associated with the sale of gas operated appliances. Staff witness Kent testified that this adjustment was consistent with other adjustments that he had made for the purpose of removing all nonutility revenues and expenses from test-period operating results. The Commission will now discuss the Intervenors' objections concerning the proper amount of sales expenses to be included as an operating revenue deduction in this proceeding. Several Intervenors questioned the propriety of allowing the remaining sales expenses, not reclassified by Staff witness Kent, as a proper operating revenue deduction. The Intervenors contend that reduction of gas supplies to North Carolina customers renders these expenditures unnecessary. The Commission has previously considered sales expenditures promoting conservation and for the purpose of maintaining its market position or share to be proper operating revenue deductions. The Commission concludes that the expenditures not otherwise reclassified by Staff witness Kent are of this nature. the Commission therefore concludes that no adjustment to sales expenses other than that made by Staff witness Kent is necessary. The Commission concludes that advertising expenses for any purpose other than conservation will not be allowed in the future as a proper operating revenue deduction for rate-making purposes.

The next adjustment made by Staff witness Kent concerns a computer lease and maintenance contract which was modified during the test period because Public Service purchased its computer equipment. As a result of the purchase, the

Company's monthly cash outlay relative to the contract decreased from $6,348 to $2,683. Staff witness Kent testified that his adjustment of $32,985 removes from the test period the difference between the lease and maintenance expense included by the Company and the total annualized maintenance expense under the modified contract. Depreciation expense applicable to the purchased computer equipment was included by the Company and by the Staff. The Commission concludes that Staff witness Kent's adjustment of $32,985 is proper.

The final item comprising the difference between the operation and maintenance expense proposed by Company witness Flanagan and Staff witness Kent is the adjustment made by Staff witness Kent to include $24,632 of interest on customer deposits in test-period operating revenue deductions. Staff witness Kent testified that his adjustment to include interest as an operating revenue deduction is consistent with his deduction of the customer deposits balance from the allowance for working capital. He stated that this treatment will allow Public Service to recover only the cost of these customer supplied funds. The Commission concludes that Staff witness Kent's adjustment including interest on customer deposits as an operating revenue deduction is proper and that this treatment allows the Company to recover only the cost of these customer supplied funds.

The Commission concludes, after examining the evidence presented, that the proper level of operation and maintenance expense to be included as an operating revenue deduction in this proceeding is $9,824,631.

The next operating revenue deduction upon which the two witnesses disagree is depreciation expense. Company witness Flanagan claimed $4,011,693 of test-period depreciation expense while Staff witness Kent claimed $3,401,292 for a difference of $610,401. The difference results from the Company's use of revised depreciation rates obtained from a depreciation study prepared by Company witness Russell and evaluated by Staff witness Nery.

The Company initially requested approval of the depreciation rates recommended in the study in Docket No. G-5, Sub 123. The Commission issued an Order on October 21, 1976 in which approval of a substantial portion of the requested depreciation rates was denied. Public Service then petitioned the Commission for reconsideration of its Order in that docket. The Commission granted the petition for rehearing and ordered that Docket No. G-5, Sub 123 be consolidated with the current rate case (Docket No. G-5, Sub 119).

Company witness Russell prepared the depreciation study and testified that his depreciation rate recommendations are higher for some plant accounts and lower for other plant accounts than the currently approved rates and that the

overall result of his proposed depreciation rates is an approximate increase of 15% in annual depreciation expense. Mr. Russell testified that he based his depreciation study on property mortality data revised for some accounts by a shorter economic life based on future gas supply of 25 years. He stated that the supply of gas is a factor determining the economic life of Public Service's assets and that depreciation rates should be set on a 25-year maximum remaining life for certain assets. When cross-examined on his choice of a 25-year remaining life, Company witness Russell testified that neither he nor his firm had any prior experience in gas supply projections and that he relied on his general reading of utility trade journals as a basis for his determination. He was unable to cite specific publications or articles or any authoritative source which would support a remaining useful life less than that determined from property mortality data.

Staff witness Nery evaluated the Company's depreciation study and testified on his depreciation rate recommendations. He testified that the Geological Estimate of Undiscovered Recoverable Oil and Gas Resources in the United States (United States Department of the Interior, 1975) reported estimated production life at the 1974 level to be 36 to 51 years and that based on this information no adjustment to mortality depreciation rates based on a 25-year remaining gas supply was necessary.

The Commission recognizes that gas supply may be a factor in determining the remaining economic life of Public Service's existing plant and also understands that Company witness Russell was not testifying that the entire gas supply would be depleted in 25 years. Based on uncertainty of future gas supply, Mr. Russell recommended that depreciation rates be increased now to reflect that uncertainty and then modified in the future as gas supply estimates become more definite. The Commission also recognizes the inequity to future gas customers of having to pay in rates to recover depreciation expense which should be recovered from customers served in the present should the depletion of gas supply reduce the economic life of Public Service's gas plant. However, it would also be inequitable for present gas customers to pay in rates to cover higher depreciation expense based on 25 years of remaining gas supply should actual gas supply be available for 50, 75, or more years. Neither the Company nor the Staff has, from the evidence presented, established accurately the number of years of remaining gas supply, and in the absence of an authoritative estimate, the Commission deems it inappropriate at this time to allow revision of depreciation rates based on 25 years' remaining gas supply. Therefore, the Commission concludes that the depreciation rates recommended by Staff witness Nery, which are based on mortality data, are proper for use in this proceeding.

The Commission will now discuss the depreciation expense adjustments made by Staff witness Kent which were based on

Staff witness Nery's depreciation rate recommendations. Staff witness Kent testified that the effect of his depreciation expense adjustments was the removal from test-period depreciation expense the amount of excess depreciation included by the Company in its filing over the depreciation amounts computed on the basis of Staff witness Nery's recommended rates. For all depreciable assets, excluding the LNG facility, Staff witness Kent reduced depreciation expense by $473,142, or the excess of Company proposed end-of-period depreciation expense over the Staff computed end-of-period depreciation expense. Staff witness Kent reduced the depreciation expense applicable to the LNG facility by $137,259, or the excess of Company proposed end-of-period depreciation expense on this facility over the comparable amount determined by the Staff. The total depreciation expense reduction from these adjustments is $610,401 and is consistent with the amount removed by Staff witness Kent from the accumulated depreciation balance to determine the cost of net gas plant in service. The Commission has previously concluded that the Staff's depreciation rate recommendations are acceptable for use in this proceeding and therefore concludes that Staff witness Kent's depreciation expense adjustments applying those rates are proper. The Commission further concludes, upon examination of the evidence presented, that the proper level of depreciation expense to be used in this proceeding as an operating revenue deduction is $3,401,292.

The next operating revenue deduction upon which the two witnesses agree is taxes other than income. Both witnesses claimed $4,853,751 as the proper amount of taxes other than income. The Commission has determined, under Evidence and Conclusions for Finding of Fact No. 9, that test-period other operating revenues should be reduced by $28,680, or the amount of test-period transportation revenues related to 533 gas. Since these revenues have been removed from consideration in this rate case proceeding, it is necessary to reduce taxes other than income for the gross receipts tax applicable to these transportation revenues in the amount of $1,721. The Commission concludes that the proper amount of taxes other than income for use in this proceeding is $4,852,030.

The final operating revenue deduction upon which the two witnesses disagree is income taxes. Company witness Flanagan presented $3,810,969 as test-period State and Federal income taxes while Staff witness Kent presented $4,144,536. The Commission has previously discussed and found proper the adjustments made by Staff witness Kent which affected his computation of State and Federal income taxes and does not deem it necessary to repeat those findings here. However, the test-period State and Federal income tax expense must be adjusted for the reduction in transportation revenues found proper under Evidence and Conclusions for Finding of Fact No. 9. The gross receipts tax reduction applicable to the $28,680 revenue decrease is $1,721, and the net taxable revenue decrease amounts to

$26,959. The State and Federal income tax reduction computed on this amount is $13,782. The Commission therefore concludes that the proper amount of State and Federal income tax expense included in this proceeding as an operating revenue deduction is $4,130,754.

Based on the testimony and evidence presented in this case discussed above, the Commission concludes that the proper level of total operating revenue deductions is $46,925,122.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Brennan found the proper amounts on March 31, 1976 of debt and preferred stock to be $53,406,000 and $8,308,000, respectively. He made no determination of cost-free capital or common equity. Brennan also presented hypothetical capital structure for year-end 1976 and 1977.

The data furnished by the Company showed cost-free capital and common equity in the amounts of $4,042,808 and $26,516,505, respectively.

Staff witness Currin agreed with Brennan's amounts for debt and preferred stock. Currin accepted the figures in the data furnished by the Company for cost-free capital and common equity with an addition to the common equity account representing unamortized Federal Investment Tax Job Development Credit.

The Commission concludes that the proper percentage capital structure is as follows:

Item	Amount	Percent
Debt	$53,406,000	57.21%
Preferred stock	8,308,000	8.90%
Common equity	27,597,000	29.56%
Cost-free capital	4,043,000	4.33%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

When the excess of fair value of the property, or rate base, over the original cost net investment in the amount of $16,990,392 is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

Item	Percent
Debt	48.27%
Preferred stock	7.51%
Common equity	40.57%
Cost-free capital	3.65%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company witness Brennan calculated the embedded costs of Public Service's debt and preferred stock to be 7.07% and 6.65% on March 31, 1976. He also provided hypothetical cost rates for year-end 1976 and 1977.

Staff witness Currin agreed with Brennan's calculations for the test year.

Given that Brennan significantly overestimated the prime rate in developing projected cost rates, those projected rates are precluded from consideration by this Commission. The Commission concludes that the embedded costs of debt and preferred stock are 7.07% and 6.65%, respectively.

Company witness Brennan recommended a return on equity of 16.5%. Brennan utilized raw-earnings/price ratios, adjusted earnings/price ratios, the bare rent theory, a comparable earnings study, and a regression based on AT&T to support his case for a 16.5% return on equity.

The regression, which seems to be the foundation of Brennan's testimony, shows a relationship between the debt ratio and the price/earnings ratio of AT&T. Brennan claimed this regression proved that, for any company, as the company's equity ratio decreased by 10% its cost of equity increased by .231%. Brennan multiplied the .231% times the difference in equity ratios of Public Service and the average of the Standard and Poors 425 Industrials. This product was 8.5% which he then added to the average return on equity for the S&P 425, which was 12.9%. The result was 21.4%. Brennan then determined that Public Service was only 75% as risky as the S&P 425. Multiplying 21% times .75 yielded an indicated cost rate of 15.75% using the S&P 425 Industrials comparable earnings approach. After several other previously mentioned studies, Brennan concluded that Public Service's cost of equity was 16.5%.

Company witness Sanders testified that he believed a return on equity of 16.5%, as recommended by Brennan, would be adequate.

Staff witness Currin's application of the DCF technique to Public Service resulted in an indicated cost of equity of 18.26%. Currin rejected that number claiming that Public Service's high historical growth rates were not representative of what Public Service might experience in the future. Accordingly, he concluded that the application of the DCF using historical growth rates was inappropriate.

Currin then attempted a comparison of the relative risks of Public Service as compared with Duke Power Company and Carolina Power & Light Company. He demonstrated that Public Service had been less risky than both CP&L and Duke over the past 10 years, as evidenced by the fact that Public Service enjoyed both a smaller fluctuation in returns on equity and

a higher average return on equity than CP&L and Duke over the 10-year period.

Though he agreed that Public Service's volume of gas available has been curtailed for the past six years, Currin asserted that, as a result of the five adjustment clauses (one of which specifically compensates for changes in volume) which North Carolina's natural gas distributors have available under present rules, there is no reason to believe that Public Service's relative risk position would change in the near future. He claimed that, consequently, the maximum return on equity for Public Service should be the cost of equity to Duke and CP&L. Using the DCF technique he found the average cost of equity, net of issuance expenses, for Duke and CP&L to be 12.93%. Thus, he testified that the maximum return on equity which could be allowed to Public Service was 12.93%.

In considering Brennan's testimony with regard to his regression of AT&T, this Commission stated in the final Order of Docket No. P-26, Sub 76 that it is skeptical of anyone's 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 its cost of equity. This precludes the consideration of Mr. Brennan's regression developed for AT&T to arrive at a cost of equity for Public Service.

The Commission notes that of the 10 or 12 other cost rates produced by Mr. Brennan's several other studies none of them support his recommendation of exactly 16.5%. Mr. Brennan admits that "the exercise of judgment is essential..." It would seem, though, that he has used an approach that is too broad.

Company witness Sanders supported Mr. Brennan's contention that 16.5% was a reasonable return on equity. However, failure to produce any supporting evidence for his contentions limits the Commission's ability to rely on his testimony in an area where other witnesses were able to provide documentation for their recommendations.

In addition to the testimonies of the various witnesses, this Commission must also note that, while Public Service seeks the same return on equity that the Commission awarded in February 1975, numerous changes have occurred within the Company, the regulatory environment, and the capital markets. Over the period February 1975 to February 1977, some of those changes which occurred are as follows:

Public Service increased its equity ratio from 22.5% to 29.6% through retained earnings;

Public Service received a volume variation adjustment clause, an exploration surcharge clause, and a surcharge clause to recover the excess costs of emergency purchases;

The rate of inflation, as indicated by the Wholesale Price Index, dropped from 14.6% to approximately 5.0%;

The average cost of "AAA" rated utility bonds dropped from 11.35% to 9.22%;

The average yield on 3-month Treasury Bills dropped from 5.8% to 4.7%; and

The prime rate dropped from approximately 9.5% to approximately 6.25%.

The conclusions are obvious: The cost of capital has dropped significantly in the past two years; Public Service has improved its common equity ratio substantially; and the Company is relatively insulated from business risk by its adjustment clauses. Accordingly, the Commission concludes that a return on book common equity of 13.25% is fair and reasonable.

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 Public Service's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of Public Service's capital structure. Considering the current investment markets in which Public Service 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 8.30% on the fair value of Public Service's property used and useful in rendering natural gas utility service to its customers in North Carolina is just and reasonable. Such a return on fair value will produce a return of 8.30% 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 7.28% multiplied by the fair value rate base is 13.50%.

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.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 14 AND 15

The following schedules 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 schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission. Based on the evidence offered that no sales to interruptible customers under the normal rate schedules occurs in the proformed test year, the Commission finds that a flat rate of $1.80 per MCF should be imposed on sales to interruptible customers. This will simplify the computation of the WNAF when supply forecasted for 12 months is greater than that established in this rate case. The rates determined to be just and reasonable are set forth in Appendix A.

SCHEDULE I
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
DOCKET NO. G-5, SUBS 119 and 123
STATEMENT OF RETURN
TWELVE MONTHS ENDED MARCH 31, 1976

	Present Rates	Increase Approved	After Approved Increase
OPERATING REVENUES			
Gas Sales	$ 53,949,016	$1,424,311	$ 55,373,327
Other Operating Revenues	191,112	90,000	281,112
Total Operating Revenues	54,140,128	1,514,311	55,654,439
OPERATING REVENUE DEDUCTIONS			
Purchased Gas	24,716,415		24,716,415
Operation and Maint. Expense	9,824,631		9,824,631
Depreciation	3,401,292		3,401,292
Taxes - Other Than Income	4,852,030	90,859	4,942,889
Income Taxes - State & Federal	4,130,754	727,669	4,858,423
Total Operating Revenue Deductions	46,925,122	818,528	47,743,650
Net Operating Income For Return	$ 7,215,006	$ 695,783	$ 7,910,789

INVESTMENT IN GAS PLANT		
Gas Plant In Service	$114,500,552	$114,500,552
Less: Accumulated Depreciation	(27,246,939)	(27,246,939)
Net Investment In Gas Plant In Service	87,253,613	87,253,613
ALLOWANCE FOR WORKING CAPITAL		
Cash	1,237,646	1,237,646
Materials & Supplies	3,766,788	3,766,788
Minimum Bank Balances	2,000,000	2,000,000
Average Pre-payments	223,973	223,973
Less: Average Operating Tax Accruals	(2,167,767)	(2,167,767)
Customer Deposits	(618,309)	(618,309)
Total Allowance For Working Capital	$ 4,442,331	$ 4,442,331
Net Investment In Gas Plant In Service Plus Allowance For Working Capital	$ 91,695,944	$ 91,695,944
Fair Value Rate Base	$108,686,336	$108,686,336
Rate of Return on Fair Value Rate Base	6.64%	7.28%

SCHEDULE II
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
DOCKET NO. G-5, SUBS 119 and 123
TWELVE MONTHS ENDED MARCH 31, 1976

	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
Capitalization	Present Rates - Fair Value Rate Base			
Long-term debt	$ 52,459,250	48.27	7.07	$3,708,869
Preferred and preference stock	8,160,939	7.51	6.65	542,702
Cost-free capital	3,970,434	3.65	-	-
Common equity				
Book $27,105,321		24.94		
Fair value increment 16,990,392		15.63		
	44,095,713	40.57	6.72	2,963,435
Total	$108,686,336	100.00		$7,215,006
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 52,459,250	48.27	7.07	$3,708,869
Preferred and preference stock	8,160,939	7.51	6.65	542,702
Cost-free capital	3,970,434	3.65		
Common equity				
Book $27,105,321		24.94		
Fair value increment 16,990,392		15.63		
	44,095,713	40.57	8.30	3,659,218
Total	$108,686,336	100.00		$7,910,789

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Commission, in its Order of February 13, 1975 in Public Service's last general rate case, Docket No. G-5, Sub 102, approved a volume variation adjustment factor to track increases and decreases in the margin between gross revenues less the applicable gross receipts tax and the cost of gas which was produced by changes in the curtailment of gas supply. The volume variation adjustment factor was modified by subsequent Orders of the Commission. Company witness Dickey stated that, due to the constantly changing gas supply, this type of rate is the only rate that is fair to both the ratepayer and to the Company and that the Company proposes that the Commission continue the application of the volume variation adjustment factor in the future (TR Volume III, P 97). The Commission concludes that the volume variation adjustment factor is a reasonable and necessary rate-making tool due to the continuing uncertainty of the gas supply situation. The Commission therefore concludes that the volume variation adjustment factor should continue to be a part of Public Service's rates.

The Commission further concludes that the volumes, revenues, gross receipts tax, cost of gas, and base margin to be used in the VVAF are as follows:

VOLUMES

		MCF
Total supply		25,551,245
Less: Company use	63,920	
Unaccounted for	1,018,548	1,082,468
Total MCF sales		24,468,777
Minimum bill volumes (MCF)		16,089

Revenues, Cost of Gas, Gross Receipts Tax and Base Margin

		Amount
Gas sales revenues		$55,373,327
Less: Cost of gas	24,716,415	
Gross receipts tax	3,322,400	28,038,815
Base margin		$27,334,512

COMMENTS ON LOAD GROWTH

There has been substantial argument on the policy concerning load or customer growth in both the Public Service rate case and Piedmont's. The Attorney General and Intervenors Brick Association and Textile Manufacturers have all expounded their views that, in the present situation, Public Service should refrain from connecting new customers.

In the Commission's Order in Docket No. G-100, Sub 21 of May 6, 1975, we stated that "To the extent required for replacement of lost loads (i.e., to offset attrition) the following new services shall be allowed,.." The Order established the 12-month period ended May 1975 as the base and allowed companies to maintain up to 102% of the R and Q priority volume based on the 12 months ended May 1975.

Implicit in the Ordering Paragraphs of the aforementioned Order was the likelihood that, at some point in the future, the FPC might adjust or "roll-over" the base '72-'73 customer data with which the FPC allocates the Transco gas supply. If you assume that the FPC will not modify its priorities for allocation of natural gas and, we at the State level allow the deterioration of the high priority market to occur, our State has the distinct possibility of being allocated less gas, should a revision of base period be made.

The Commission's Order in Docket No. G-100, Sub 21 dated May 6, 1975 allowed the companies to maintain a "status quo" in R and Q priorities as far as volumes are concerned. It allowed customers in these high priority categories to be added in order to offset attrition. It also permitted a way in which the gas utilities could, in part, live up to their public utility obligation to serve.

Inasmuch as this matter affects all natural gas utilities and users, the Commission on January 18, 1977 issued an Order Reopening Docket and Setting Hearing in Docket No. G-100, Sub 21 on load growth policy. A hearing is set to begin on April 5, 1977. This matter should be decided in that docket.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Public Service to increase its rates and charges is approved only to the extent of producing additional annual gross revenues not exceeding $1,514,311 consistent with the premises of this Order. To the extent that the proposed increases exceed this amount, the same are disallowed.

2. That Public Service shall file on one day's notice appropriate tariffs consistent with this Order and the rate increases found to be just and reasonable in accordance with Appendix A attached hereto.

3. That the volume variation adjustment factor as approved in Docket No. G-5, Sub 102 and as modified in subsequent Orders of the Commission shall continue to be a part of Public Service's rates and charges.

ISSUED BY ORDER OF THE COMMISSION.

This 11th day of February, 1977.

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

Note: For Revised Appendix A, corrected by Order dated February 18, 1977, see official Order in the Office of the Chief Clerk.

DOCKET NO. G-21, SUB 175

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of North Carolina Natural Gas Corporation for Authority to Issue and Sell $12,000,000 Principal Amount of its First Mortgage Pipeline Bonds, 8-3/4% Sinking Fund Series, due September 1, 1992	) ORDER GRANTING) AUTHORITY TO ISSUE) AND SELL FIRST) MORTGAGE BONDS))

This cause comes before the Commission upon an application of North Carolina Natural Gas Corporation (hereinafter referred to as Applicant), filed under date of September 1, 1977, through its counsel, McCoy, Weaver, Wiggins, Cleveland & Raper, Fayetteville, North Carolina, wherein authority of the Commission is sought as follows:

1. To issue and sell to institutional investors for cash, at the par value thereof, $12,000,000 principal amount of its First Mortgage Pipeline Bonds, 8-3/4% Sinking Fund Series, due September 1, 1992;

2. To execute a Bond Purchase Agreement with institutional investors; and

3. To execute and deliver to the Trustees, a Fourth Supplemental Indenture dated as of September 1, 1977, to secure payment of the Bonds.

FINDINGS OF FACT

1. The Applicant is a Delaware corporation authorized to do business in the State of North Carolina; operating under a Certificate of Convenience and Necessity granted by this Commission on December 7, 1955, as amended by orders dated March 27, 1959, and September 14, 1967, authorizing it to engage in the transmission and distribution of natural gas to certain areas in the State; and is a public utility as defined in Article 1, Chapter 62 of the General Statutes of North Carolina.

2. The Applicant transmits piped natural gas for compensation via 831 miles of pipeline from three (3) take-off points on the Transcontinental Gas Pipeline near Mooresville, North Carolina, Pleasant Hill, North Carolina

and Ahoskie, North Carolina, into thirty-two (32) counties of south, central and eastern North Carolina.

3. The Applicant operates forty-three (43) distribution systems in urban communities and sells at wholesale to municipal systems in Monroe, Wilson, Greenville and Rocky Mount, all of North Carolina.

4. As of the date of filing its Application, the Applicant's total authorized capital stock consists of 3,000,000 shares of common stock, $2.50 par value, of which 1,700,288 shares are outstanding. As of the date of filing its Application, the Applicant had long-term debt in the amount of $9,521,000.

5. The Applicant now proposes to issue and sell at par, subject to the approval of the Commission, $12,000,000 principal amount of its First Mortgage Pipeline Bonds, 8-3/4% Sinking Fund Series, due September 1, 1992, to eight institutional investors, under the terms and provisions of a proposed Bond Purchase Agreement filed with its Application as Exhibit A and substantially in the form as set forth in said Fourth Supplemental Indenture being an exhibit to the aforesaid Bond Purchase Agreement.

6. The proposed sale of the Bonds was arranged in privately negotiated transactions between the Applicant and the purchasers in which the Applicant was represented by Kidder, Peabody & Co., investment bankers; that the proposed interest rate of 8-3/4% per annum compares favorably with interest rates obtained by similar natural gas utilities issuing First Mortgage Pipeline Bonds with similar terms in the current market.

7. The Applicant represents that a commission of $90,000 will be paid to Kidder, Peabody & Co. for placing bonds with the institutional investors named in its Application and that the Applicant will further be responsible for fees and expenses in the estimated amount of $65,000.

8. The Applicant further represents that the proceeds to be realized from the sale of the Bonds will be used to retire approximately $9,200,000 in bank loans which loans were used for construction of capital assets, i.e. additions to its distribution systems, additions to its transmission system and additions to its general plant. The balance of the proceeds to be realized from the sale of the Bonds will be used to repay a portion of the Applicant's maturing First Mortgage Bond indebtedness.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed are:

(a) For a lawful object with the corporate purposes of the Applicant.

(b) Compatible with the public interest.

(c) Necessary and appropriate for and consistent with the proper performance by Applicant 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:

1. The Applicant be, and it is hereby authorized, empowered and permitted under the terms and conditions set forth in the Application and its supporting data to issue and sell $12,000,000 principal amount of its First Mortgage Bonds, 8-3/4% Sinking Fund Series, due September 1, 1992, by means of a negotiated transaction to eight institutional investors at 100% of the principal amount thereof.

2. The net proceeds to be derived from the sale of the Bonds shall be devoted to the purposes set forth in the Application.

3. The Applicant shall file with the Commission, when available in final form, one conformed copy of the Bond Purchase Agreement as executed between the Applicant and each of the eight institutional investors and of the Fourth Supplemental Indenture as executed between the Applicant and The First National Bank of Chicago and William K. Stevens (successor to Coll Gillies), Trustees.

4. The Applicant is authorized to incur and pay the expenses in connection with the issue and sale of the 8-3/4% Sinking Fund Series Bonds in the amounts estimated in the Application and as set forth in the above Findings of Fact.

5. Within sixty (60) days after the delivery and purchase of the $12,000,000 principal amount of the 8-3/4% Sinking Fund Series Bonds, the Applicant shall file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted.

6. Nothing in this Order shall be construed to deprive this Commission of any of its regulatory authority under the law.

ISSUED BY ORDER OF THE COMMISSION.
This the 15th day of September, 1977.

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

DOCKET NO. G-9, SUB 172

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., for Authority to Issue and Sell $30,000,000 of __% Debentures, Series Due August 1997	) ORDER GRANTING) AUTHORITY TO ISSUE) AND SELL DEBENTURES)

This cause comes before the Commission upon a petition of Piedmont Natural Gas Company, Inc. (the "Company"), filed under date of August 9, 1977 by its counsel, Brooks, Pierce, McLendon, Humphrey & Leonard, Greensboro, North Carolina, wherein the Commission is requested to issue an order authorizing, empowering and permitting the Company:

1. To issue and sell $30,000,000 principal amount of __% Debentures, Series Due August 1997 (the "New Debentures") to a group of underwriters represented by Merrill Lynch, Pierce, Fenner & Smith Incorporated as contemplated by the proof of the purchase agreement attached to the petition and upon the terms and conditions set forth in the petition;

2. To execute and enter into and deliver to Citibank, N.A., as trustee, a Fifth Supplemental Indenture in the form attached to the petition with such changes as the officers of the Company may approve;

3. To execute and enter into a purchase agreement for the sale of $30,000,000 principal amount of the New Debentures with Merrill Lynch, Pierce, Fenner & Smith Incorporated as representative of the several underwriters in the form attached to the petition with such changes as the officers of the Company may approve; and

4. To apply the proceeds from the sale of the New Debentures as set forth in the petition.

FINDINGS OF FACT

1. The Company is incorporated under the laws of the State of New York and is duly authorized by its Certificate of Incorporation to engage in the business of transporting, distributing and selling gas outside of the State of New York. It is duly domesticated and is engaged in conducting the business above mentioned in the States of North Carolina and South Carolina. It is a public utility under the laws of this State and its public utility operations are subject to the jurisdiction of this Commission.

2. The Commission has previously granted the Company a Certificate of Public Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the State of North Carolina. The Company now holds franchises

and is furnishing natural gas to customers in 42 cities and towns located in 14 counties in North Carolina.

3. The Company's capitalization at June 30, 1977, and as adjusted at that date to reflect the sale of the New Debentures is as set forth in Exhibit A to the petition.

4. In order to facilitate, improve and extend its services, the Company spent $25,388,263 ($20,282,765 in North Carolina) during the period January 1, 1973 through June 30, 1977 and the Company proposes to spend, in carrying out its program of construction and extension of services, approximately $6,200,000 during the year 1977.

5. The Company proposes to issue and sell to the public $30,000,000 principal amount of __% Debentures, Series Due August 1997 through a group of underwriters represented by Merrill Lynch, Pierce, Fenner & Smith Incorporated pursuant to the terms of the purchase agreement (the "Purchase Agreement") attached to the petition. The purchase price for the New Debentures to be paid to the Company by the underwriters will be determined by agreement between the Company and the representative of the underwriters immediately preceding the sale thereof and will be expressed as a percentage of the principal amount of the New Debentures, plus accrued interest from August 1, 1977 to the date of payment and delivery.

6. It is estimated that the expenses (excluding underwriting discounts and commissions estimated at approximately $262,500) to be incurred in connection with the issuance and sale of the New Debentures will be approximately $200,000.

7. The proceeds from the sale of the New Debentures will be used as set forth under the caption "Application of Proceeds and Construction Program" in Exhibit A to the petition.

CONCLUSIONS

From a review and study of the application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed are:

1. For a lawful object within the corporate purposes of the Company;

2. Compatible with the public interest;

3. Necessary and appropriate for and consistent with the proper performance by Company of its service to the public and will not impair its ability to perform that service; and

4. Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED, that Piedmont Natural Gas Company, Inc., be, and it hereby is authorized, empowered and permitted under the terms and conditions set forth in the petition:

1. To issue and sell $30,000,000 of the New Debentures to a group of underwriters represented by Merrill Lynch, Pierce, Fenner & Smith Incorporated as contemplated by the proof of the Purchase Agreement attached to the petition and upon the terms and conditions set forth in the petition;

2. To execute and enter into and deliver to Citibank, N.A., as trustee, a Fifth Supplemental Indenture in the form attached to the petition with such changes as the officers of the Company may approve;

3. To execute and enter into the Purchase Agreement for the sale of $30,000,000 principal amount of the New Debentures with Merrill Lynch, Pierce, Fenner & Smith Incorporated as representative of the several underwriters in the form attached to the petition with such changes as the officers of the Company may approve;

4. To apply the proceeds from the sale of the New Debentures as set forth in the petition;

5. To amortize the call premium of the 10-1/4% Bonds and issuance expense of the New Debentures over the 20-year life of the New Debentures as prescribed under the Uniform System of Accounts for Natural Gas Companies (18 CFR Part 101 (1976)).

6. To file with this Commission, when available in final form, one copy of the Purchase Agreement and one copy of the Fifth Supplemental Indenture;

7. To file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted within a period of sixty (60) days following the completion of the transactions authorized herein; and

8. To file with this Commission, in the future, a notice of negotiations of short-term bank notes setting forth the principal amount thereof, the rate of interest and the date of maturity; provided, however, that the sale of the New Debentures shall not be consummated until this Commission shall be notified of the interest rate and the public offering price of the New Debentures and the price to be paid to the Company with respect to the sale of the New Debentures and until this Commission shall notify

Piedmont Natural Gas Company by Western Union TWX of its approval of said interest rate, public offering price and price to be paid to the Company.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of August, 1977.

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

DOCKET NO. G-5, SUB 131

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED For Authority to Issue and Sell 200,000 Shares of its Cumulative Preferred Stock, 8% Series of 1977, Having Par Value of $25 Per Share	) ORDER GRANTING) AUTHORITY TO) ISSUE AND SELL) SECURITIES

This cause comes before the Commission upon an Application of Public Service Company of North Carolina, Incorporated (Company), filed under date of May 19, 1977, through its Counsel, Mullen, Holland & Harrell P. A., Gastonia, North Carolina, wherein approval of the Commission is sought as follows:

To issue and sell 200,000 shares of its Cumulative Preferred Stock, 8% Series of 1977, having the par value of $25 per share, in a private placement to six institutional investors for cash at 100% of the par value thereof.

FINDINGS OF FACT

1. The Company is a North Carolina corporation owning and operating in North Carolina gas transmission lines, distribution systems, services and other facilities necessary and proper for furnishing and delivering natural gas to the public within the territories authorized by this Commission; is a public utility as defined in Article I of Chapter 62, General Statutes (G. S. 62-1 - G. S. 62-4) of North Carolina; and is subject to the jurisdiction of the North Carolina Utilities Commission.

2. As of the date of filing of the Application, the Company had $7,000,000 principal amount of short-term notes that had been issued to banks as of March 31, 1977 and are still outstanding for money required for construction of lines, systems, services, equipment and facilities. During the period from October 1, 1975 and ending December 31, 1976, the Company expended the aggregate sum of $10,268,522 on construction of lines, systems, services, equipment and facilities. The entire proceeds of $7,000,000 of said notes

were expended toward defraying the cost of said construction.

The balance of the aggregate cost of said construction was paid from funds generated by the net proceeds from the Applicant's most recent financing referred to in Paragraph Eleventh of the Application, the application for and the Order authorizing such last financing being of record in Docket No. G-5, Sub 115, of this Commission.

3. Applicant proposes to file in the Office of the Secretary of State of North Carolina a Statement of Classification of Shares establishing a new series of the Cumulative Preferred Stock of Applicant to Consist of 200,000 shares, par value of $25 per share, designated as "Cumulative Preferred Stock, 8% Series of 1977", and fixing the relative rights and preferences of the Cumulative Preferred Stock, 8% Series of 1977, in respect of which the shares of such series may vary from shares of other series of the Cumulative Preferred Stock. A copy of this Statement of Classification of Shares substantially in the form in which it will be so filed was presented with the Application as Exhibit B.

4. Applicant proposes (a) to issue and sell 200,000 shares of its Cumulative Preferred Stock, 8% Series of 1977, par value of $25 per share, by means of an already negotiated transaction to six institutional investors, for cash at 100% of the par value thereof, aggregate purchase price being $5,000,000; and (b) in connection with said proposed issuance and sale to execute and enter into with each of the six institutional purchasers a Purchase Agreement substantially in the form presented with the Application as Exhibit C.

As per data filed with the application (Exhibit F) the First Boston Corporation made extensive efforts to place the 200,000 shares of Cumulative Preferred Stock during early April 1977 with a 7.7/8% dividend rate but was unsuccessful, however, 6 of the institutions out of the 44 contacted did agree to an 8% rate which was accepted by the Company subject to approval of the North Carolina Utilities Commission.

5. The Company proposes to issue and sell said additional share of its Cumulative Preferred Stock for the purpose of paying off in part the $7,000,000 principal amount of short-term notes that had been issued by the Company to banks as of March 31, 1977 and are still outstanding.

6. The Company estimates that it will incur expenses of approximately $125,000 in connection with the issuance and sale of the additional shares of its Cumulative Preferred Stock.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed are:

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

(d) Reasonable necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED THAT:

1. The Company is authorized and permitted to issue and sell 200,000 shares of its authorized but unissued Cumulative Preferred Stock, 8% Series of 1977, having the par value of $25 per share and such preferences, limitations and relative rights as set forth in the Charter of the Company and the form of the Statement of Classification of shares presented as Exhibit B to the Application, to six institutional investors pursuant to the terms and conditions of a Purchase Agreement substantially in the form presented as Exhibit C to the Application for cash at 100% of the par value thereof, aggregate gross proceeds to the Company being $5,000,000.

2. The Company is authorized to incur and pay the expenses in connection with the issuance and sale of said additional shares of Cumulative Preferred Stock, which are estimated by the Company in the Application and in the amount as set forth in the above Findings of Fact;

3. The net proceeds to be derived from the issuance and sale of said additional shares of Cumulative Preferred Stock shall be used by the Company for the purpose set forth in the above Findings of Fact;

4. The Company shall file with this Commission, when available in final form, one conformed copy of the Purchase Agreement as executed between the Company and the six institutional investors and of the Statement of Classification of Shares as filed with the Secretary of State of North Carolina.

5. Within sixty (60) days after the delivery and purchase of the 200,000 shares of Cumulative Preferred Stock, 8% Series of 1977, the Company shall file with this Commission, in duplicate, a verified report of actions taken

and transactions consummated pursuant to the authority herein granted;

6. Nothing in this Order shall be construed to deprive this Commission of any of its regulatory authority under the law.

ISSUED BY ORDER OF THE COMMISSION.
This the 31st day of May, 1977.

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

DOCKET NO. G-21, SUB 170

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges to Recover a Portion of its Costs of Exploration in Approved Programs	) ORDER APPROVING) TRACKING INCREASE) AND DISCHARGING) UNDERTAKING)

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on July 29, 1977, at 9:30 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney, Robert K. Koger, Leigh H. Hammond, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland and Raper, P. O. Box 2129, 222 Maiden Lane, Fayetteville, North Carolina 28302

For the Using and Consuming Public:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602

For the Public Staff:

Robert F. Page, Assistant Staff Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Intervenor:

William H. McCullough and Charles C. Meeker, Sanford, Cannon, Adams and McCullough, P. O. Box 389, Raleigh, North Carolina 27602

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

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.

On December 11, 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% customer funds and 25% stockholder funds.

On June 7, 1977, North Carolina Natural Gas Corporation (NCNG or the Company) filed an application and exhibits in the above-captioned docket seeking to recover or track, through a surcharge effective July 1, 1977, 75% of its costs incurred during the six months ended March 31, 1977, in exploration and development ventures heretofore approved by the Commission. The total amount sought to be recovered by NCNG, after adding income tax payments and interest costs and deducting overcollections from Docket No. G-21, Sub 162, and revenues of $17,995 from total expenses, is $1,841,299. In order to recover this amount during the six months ending December 31, 1977, NCNG proposed to increase its rates by $.1512 per Mcf.

On June 9, 1977, the Attorney General filed Notice of Intervention in the matter, and by Order issued June 16, 1977, the Commission recognized said Intervention. On June 10, 1977, the Attorney General filed a Motion for Declaration of Scope of Case, Hearing, Notice and Suspension of Proposed Rates. By Order issued June 20, 1977, the Commission set the matter for hearing on July 28, 1977, upon public notice and suspended the proposed rates pending the filing of an Undertaking to refund any amounts collected thereunder which might ultimately be found unjust and unreasonable by the Commission. The Commission also declared the proceeding to be a case confined to the reasonableness of a specific single rate and involving questions which do not require a determination of overall rate of return and stated that the case is before the

Commission pursuant to G.S. 62-2, 30, 31, 32, and 130 and Commission Rule R1-17(h) established pursuant thereto. On June 24, 1977, NCNG filed an Undertaking which, by Order issued July 28, 1977, the Commission approved. On July 1, 1977, NCNG filed amended tariff sheets pursuant to said Order.

On July 7, 1977, the Public Staff filed Notice of Intervention and a Motion Requesting Prefiled Testimony in the matter. By Order issued July 13, 1977, the Commission recognized the Intervention of the Public Staff, set a time for prefiling testimony, continued the hearing until July 29, 1977, and required additional notice to the public.

The matter came on for hearing before the full Commission as scheduled. NCNG offered the testimony and exhibits of Calvin B. Wells, Vice President of NCNG, regarding a revised increase (from $.1512 per Mcf to $.1386 per Mcf) in the proposed surcharge rate and the status of NCNG's participation in exploration programs as of June 30, 1977. Earl C. Chambers, Senior Vice President - Supply and Technology, Piedmont Natural Gas Company, also testified for NCNG, regarding the background of the proceedings and the results of the approved exploration programs.

The Public Staff offered the testimony of William L. Dudley, Staff Accountant, regarding NCNG's computation of the proposed surcharge and Parker L. Hatcher, Jr., Utilities Engineer, Gas Division, regarding the history of approved exploration and development programs and NCNG's projected sales over the period for which the surcharge is proposed.

Donald H. Thomas, Director, Energy Resources, testified for CF Industries, Inc., regarding further participation in exploration and drilling programs and requested changes in Rule R1-17(h). The Attorney General offered no witnesses.

Based on the Petition, the evidence adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That North Carolina Natural Gas Corporation is a corporation organized under the laws of the State of Delaware and duly domesticated and engaged in the business of transporting, distributing, and selling gas in North Carolina.

2. That NCNG is a public utility within the meaning of G.S. 62-2(23) and, as such, is subject to the jurisdiction of this Commission.

3. That by this application pursuant to Commission Rule R1-17(h) NCNG is seeking to increase its rates by $.1386 per Mcf during the period July 1, 1977, through December 31, 1977, in order to recover a net expenditure of $1,841,299,

representing 75% ratepayer participation in the five Commission-approved exploration programs for the six months ended March 31, 1977. This net expenditure is computed as follows:

$2,107,889	Total expenses
(17,995)	Total revenues
$2,089,894	Expenses net of revenues
x.75	
$1,567,421	
313,091	Income tax on customer portion of exploration activities
48.780	Allowances for funds
$1,929,292	Total recoverable expenditures
(87,993)	Remaining overcollections as of December 31, 1976
$1,841,299	Net recoverable expenditures

4. That all of the expenditures which NCNG is seeking to recover herein were expended in Commission-approved programs for exploration and development of natural gas and are ordinary and reasonable expenditures of a public utility gas distribution company.

5. That NCNG's income tax payment on the customer portion of exploration activities results from the timing difference between the exploration programs' tax year and the Company's tax year. In future periods, deductible expenditures will occur to offset the revenues on which taxes have been paid. At such time, taxes which NCNG has collected from its customers will be flowed back through a reduction in the exploration surcharge.

6. That as of June 30, 1977, a total of 118 wells has been drilled in the five Commission-approved exploration programs resulting in 81 dry holes, 33 gas wells, and 4 oil wells.

7. That a total of $18,492,224 has been spent in these programs by the five North Carolina gas utilities. Of this amount NCNG has spent $5,367,942.

8. That estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 11,379,473 Mcf; probable reserves - 11,397,328 Mcf; possible reserves - 9,670,754 Mcf; and total reserves - 32,447,555 Mcf. NCNG's shares are 3,547,715 Mcf; 3,278,026 Mcf; 2,766,112 Mcf; and 9,401,553 Mcf, respectively. Estimated oil/condensate reserves from the five programs for all gas companies are as follows: proved reserves - 457,167 bbls.; probable reserves - 266,422 bbls.; possible reserves - 226,896 bbls.; and total reserves - 950,505 bbls. NCNG's shares are 135,254 bbls.; 79,387 bbls.; 67,605 bbls.; and 282,246 bbls., respectively.

9. That the estimated values of the gas and oil reserves from the five programs for all the gas companies are as follows: proved reserves - $2|,77|,|00; probable reserves - $|9,645,339; possible reserves - $|6,678,688; and total reserves - $58,095,|27. The values to NCNG are $6,427,49|; $5,68|,403; $4,80|,|08; and $|6,9|0,002, respectively, at prices of $|.46 per Mcf for natural gas and $||.28 per barrel for oil/condensate.

|0. That the exhibits filed by NCNG show the following, based on the |2 months ended December 3|, |976.

(i) The original cost net investment of NCNG's property used and useful in providing service to the public in North Carolina is $46,494,209.

(ii) The fair value of NCNG's property used and useful in providing service to the public in North Carolina is $70,39|,||8.

(iii) NCNG's revenues under rates in effect prior to the increase requested in this docket as adjusted are approximately $39,746,|27.

(iv) NCNG's reasonable operating expenses as adjusted are approximately $37,265,037 before expenditures in connection with Commission-approved exploration programs.

(v) As a result of expenditures in approved exploration programs, NCNG has increased its ordinary and reasonable operating expenses by $|,84|,299.

(vi) After accounting and pro forma adjustments, NCNG's rate of return on end-of-period net investment is 5.33% and on fair value rate base is 3.5|%.

(vii) After accounting and pro forma adjustments, NCNG's rate of return on end-of-period common equity is 4.55% and on fair value equity is 2.09%.

||. That the rates of return found just and reasonable in Docket No. G-2|, Sub |28, NCNG's last general rate case, are as follows:

Fair value rate base	7.42%
End-of-period common equity	|4.22%
Fair value equity	9.48%

|2. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses for the purpose of establishing NCNG's basic rates, the proposed increase will not result in the Company's rates

of return exceeding those approved in its last general rate case.

Whereupon, the Commission reaches the following

CONCLUSIONS

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternative methods of increasing the supply of gas to North Carolina, that the most dependable and economical way of obtaining additional gas is through programs of exploration and development. The Commission therefore established a procedure, Rule R1-17(h), whereby the State's gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenditures at six-month intervals. All of the evidence shows that NCNG has complied with the requirements of Rule R1-17(h), in the instant proceeding. Finding that NCNG's expenditures for exploration and development during the period October 1, 1976, through March 31, 1977, are reasonable and that the proposed rates to track these expenditures will not result in NCNG'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 surcharge filed by NCNG should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of North Carolina Natural Gas Corporation to increase its rates to all customers by $.1386 per Mcf effective on bills rendered on and after July 1, 1977, in order to recover 75% of its net reasonable expenditures in Commission-approved programs of gas exploration and development during the period October 1, 1976, through March 31, 1977, is hereby approved and that NCNG shall file revised tariffs, effective on one day's notice reflecting such adjustment.

2. That the Undertaking filed by NCNG on June 24, 1977, is hereby discharged.

3. That NCNG shall continue its present account to record the revenues received from this adjustment in rates so that the Commission can determine that the revenues collected equal the amounts expended in approved exploration programs.

4. That NCNG shall maintain a record of all taxes resulting from timing differences which are collected from its customers and all such taxes shall be returned to its customers by a redirection in the surcharge in future periods.

5. That the attached notice, Appendix A, shall be mailed to all customers of NCNG along with their next bills, advising them of the action taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This 2nd day of September, 1977.

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

APPENDIX A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Upon application by North Carolina Natural Gas Corporation to recover 75% of its costs incurred between October 1, 1976, and March 31, 1977, 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, 1977, by $.1386 per Mcf on all rate schedules.

NORTH CAROLINA NATURAL GAS CORPORATION

DOCKET NO. G-9, SUBS 131D and 131E

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Piedmont Natural Gas Company, Inc., for an Adjustment of its Rates and Charges	) ORDER DETERMINING AMOUNT) OF OVERCOLLECTIONS) UNDER CURTAILMENT) TRACKING RATE

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 9, 10, and 11, 1977

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; and Commissioners Ben E. Roney and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey and Leonard, Post Office Drawer U, Greensboro, North Carolina 27402

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On September 22, 1976, the Commission issued its Order Adjusting Rate in Docket No. G-9, Sub 13D. In that Order the Commission denied Piedmont's application to increase its seasonal curtailment tracking adjustment (CTA) rate to $.26145 per mcf effective June 1, 1976. The Commission's Order required Piedmont to refile pursuant to Appendix A and to refund to its customers the difference between the $.26145 per mcf rate and the rate computed under Appendix A. Appendix A reads as follows:

"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 CTA rate to be effective June 1, 1976. Estimated volumes shall include any emergency purchases.

2. A 'true' CTA rate shall be calculated for the period January 1, 1975, through December 31, 1975, 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 16, 1975, through April 15, 1976, based on actual curtailment for the period. An adjustment for the period January 1, 1976, through April 15, 1976, 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 16, 1976, through May 31, 1976, 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 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 1, 1976.

5. The difference between the $.26145 rate subject to undertaking and the rate determined in 1. above

multiplied by the volumes on which the $.26145 has been billed shall be flowed back to the customers who paid the $.26145 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 ending 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 adjustment to the R priority over a 12-month period effective June 18, 1976."

On October 20, 1976, Piedmont filed Notice of Appeal and Exceptions to the Order Adjusting Rate. Also, on October 20, 1976, Piedmont filed a Motion for Hearing on its Notice of Appeal and Exceptions and a Motion for Rehearing and a Stay. By Order issued November 4, 1976, the Commission denied both of Piedmont's motions. The Record on Appeal was subsequently docketed with the North Carolina Court of Appeals.

On November 12, 1976, Piedmont filed with the Court of Appeals a Petition for Writ of Supersedeas, which, on November 30, 1976, the Court allowed as follows:

"That portion of the Utilities Commission order entered in this cause on the 22nd day of September, 1976, which requires refund of monies collected upon bills rendered prior to the 1st day of June, 1976, is stayed pending appellate review by this Court of the proceedings and the order of 22 September 1976; as to the remainder of the Utilities Commission order entered in this cause on the 22nd day of September, 1976, the petition for writ of supersedeas is denied.

"If the appellant fails to perfect appeal in accordance with the North Carolina Rules of Appellate Procedure, this partial stay order will be dissolved."

On December 7, 1976, Piedmont filed a letter stating its responses to Appendix A of the Commission's Order of September 22, 1976. These were as follows:

"1. The operation of the Curtailment Tracking Adjustment (CTA) for the period January 1, 1975 through December 31, 1975, was settled by Order of the Commission in Docket G-9, Sub 148, at which time Piedmont was ordered to make a refund of $1,343,783. At October 31, 1976, all but $185,709 had been refunded. Therefore, no further adjustment is required for the

period November 1, 1975 through December 31, 1975. For the period January 1, 1976 through April 15, 1976, the Company undercollected $458,452.

2. The operation of the CTA for the period January 1, 1975 through December 31, 1975, was settled by Order of the Commission in Docket G-9, Sub 148. Therefore, no further adjustment is required for this period.

3. Same as "1" above.

4. During the period April 16, 1976 through May 31, 1976, the Company undercollected $135,342.

5 & 6. For the period January 1, 1976 through May 31, 1976, the Company undercollected $593,794; therefore, no refund is required under the provisions of paragraphs 5 and 6.

"Piedmont has calculated a true-up for the effective period of Docket G-9, Sub 131-D (April 16, 1976 through October 31, 1976) as follows:

"Undercollection 4/16 - 5/31	$(135,342)
Overcollection 6/1 - 10/31	899,706
Net	$ 764,364
Less Undercollection 1/1 - 4/15	458,452
	305,912
Plus Sub 131-D Overcollections	
Due to: Additional Volumes	111,642
Excess Emergency Sales	168,166
Transportation Revenues	27,094
Refund Pending - Item I	185,709
Total Refund due for all CTA's for the period January 1, 1975 through October 31, 1976	$ 798,523"

On December 15, 1976, Piedmont filed in Docket No. G-9, Sub 131E, revised rate schedules to become effective December 15, 1976. By Order issued December 21, 1976, the Commission accepted the adjustment contained in the filing, subject to investigation and hearing on January 6, 1976, and required Piedmont to appear on that date and show cause why the Company should not refund to its customers all amounts collected in Docket No. G-9, Sub 131D, since June 1, 1976, in excess of those amounts which the Company would have collected under rates filed in accordance with the portions of the Commission's Order of September 22, 1976, which have not been stayed by the Court of Appeals.

On December 27, 1976, Piedmont filed further revised rate schedules in Docket No. G-9, Sub 131E, and also moved that

the hearing be continued for 60 days. By Order issued January 3, 1977, the Commission suspended the further revised rate schedules and continued the hearing until March 8, 1977. Subsequently, because of a calendar conflict, the Commission ordered the hearing continued for one day until March 9, 1977.

The matter coming on for hearing, Piedmont called as an adverse witness Parker L. Hatcher, Jr., Utilities Engineer, in the Gas Section of the Commission's Engineering Division. The Company also offered the testimony and exhibits of Everette C. Hinson, Vice President and Treasurer of Piedmont. The Commission Staff offered the testimony and exhibits of the following witnesses: Daniel M. Stone, Utilities Engineer in the Gas Section of the Engineering Division; Donald E. Daniel, Coordinator of the Gas and Water Section of the Accounting Division; and M. Dell Coleman, Director of the Accounting Division. The Intervenor Attorney General offered no witnesses.

Based upon the evidence adduced at the hearing and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That the Curtailment Tracking Adjustment (CTA) formula approved for Piedmont in the Commission's Order Establishing Rates, Docket No. G-9, Sub 131, issued December 12, 1974, was designed to allow the Company to maintain its margin (revenues less cost of gas and gross receipts taxes) established for a base period, despite fluctuations in revenues due to curtailment in gas supply.

2. That the CTA formula as filed by Piedmont and as approved by the Commission in Docket No. G-9, Sub 131, provides that all data used in the computation of the CTA rate are for 12-month periods and that, at the end of each 6-month period ended April 30 and October 31, the computed margin variation will be compared to actual experience for the prior 6-month period and a determination will be made of the amount of any excess or deficiency in the adjustment, which amount will be added to or subtracted from the computed margin variation for the next subsequent period. The formula further provides that sales mix and percentage North Carolina supply are frozen at base period levels.

3. That Piedmont filed its first CTA rate on December 31, 1974 in Docket No. G-9, Sub 131A, based on 12-month forecast volumes beginning January 1, 1975, and effective January 1, 1975. This filing was approved by the Commission.

4. That on July 18, 1975, Piedmont filed a second CTA rate in Docket No. G-9, Sub 131B, based on 12-month estimated volumes beginning July 1, 1975. This filing included a credit to refund overcollections made during the

first six months of 1975 due to the difference between the rate based on 12-month forecast volumes in Docket No. G-9, Sub 131A and the rate based on the adjusted 12-month volumes which included actual volumes for the six months ended June 30, 1975, plus 6-month estimated volumes. It was approved by the Commission.

5. That on August 15, 1975, the Commission instituted an investigation in Docket No. G-9, Sub 148, to determine if the then existing level of rates and charges of Piedmont, being the rates fixed by Order of December 12, 1974, and all subsequent tracking increases including the CTA, were producing a rate of return in excess of that fixed by the Commission as just and reasonable in Docket No. G-9, Sub 131, which investigation was concluded by Order issued March 10, 1976.

6. That on January 29, 1976, Piedmont filed a third CTA rate in Docket No. G-9, Sub 131C, based on 12-month volumes calculated by annualizing the 1975-76 winter period supply (Company Exhibit, page 8 of 11). This filing included a credit for the yet-to-be-refunded portion of the overcollections made during the first six months of 1975 in Docket No. G-9, Sub 131A (See Finding of Fact No. 5, supra.), a credit to refund overcollections made during the 138 days ended November 15, 1975, due to the difference between the rate based on 12-month volumes beginning January 1, 1975 (6-month actual and 6-month forecast) in Docket No. G-9, Sub 131B and the rate based on 12-month volumes beginning June 30, 1975 (4-1/2 months' actual and 7-1/2 months' forecast), and a credit for overcollections made during that last 46 days of 1975 when the CTA increment calculated in Docket No. G-9, Sub 131B, was in effect instead of the increment calculated in Docket No. G-9, Sub 131C. This filing was approved by the Commission in its Order concluding the investigation into Piedmont's level of earnings on 1975 operations.

7. That on June 2, 1976, Piedmont filed a fourth CTA rate in Docket No. G-9, Sub 131E, based on a new 12-month volume forecast using annualized entitlements for the period April 16, 1976, through October 31, 1976. This filing, which included a credit for yet-to-be-refunded overcollections made during the period November 16, 1975, through January 31, 1976, when the CTA increment calculated in Docket No. G-9, Sub 131B, was in effect instead of the increment calculated in Docket No. G-9, Sub 131C, was allowed to become effective pursuant to Undertaking for Refund.

8. That on September 22, 1976, the Commission ordered Piedmont to file a revised CTA rate in Docket No. G-9, Sub 131D, based on five or seven months' actual volumes and five or seven months' forecast volumes, and to calculate a "true" CTA rate for the calendar year 1975 and the year 1976 to date, refunding to its customers the difference between the

true rate and the rate actually in effect. This filing was never made.

9. That on December 15, 1976, Piedmont filed a fifth CTA rate in Docket No. G-9, Sub 131E, based on 12-month volumes which included 7-month actual experience (April 1, 1976, through October 31, 1976) and 5-month forecast experience (November 1, 1976, through March 31, 1977). This filing, which included a credit for overcollections made during the period November 1, 1976, through December 14, 1976, when the CTA increment calculated in Docket No. G-9, Sub 131D was in effect instead of the CTA increment calculated in Docket No. G-9, Sub 131E, was accepted by the Commission.

10. That in the above CTA filings Piedmont used a base period margin of $24,367,335 in making its calculations.

11. That on December 27, 1976, Piedmont filed a revised fifth CTA rate in Docket No. G-9, Sub 131E. This filing, in which Piedmont used a base period margin of $24,831,400 in making its calculations, was suspended by the Commission.

12. That the total overcollections and refunds made by Piedmont during the period January 1, 1975, through October 31, 1976, are as follows:

Revenue Collected at Forecasted CTA Rate	Revenue at True CTA Rate	Gross Over-collections	Revenue Refunded at Forecasted Rate
$7,472,710	$4,707,037	$2,765,673	$2,375,889

For the 22 months ended October 31, 1976, Piedmont had unrefunded overcollections totaling $389,784.

13. That Piedmont's unrefunded margin on emergency sales in excess of base period levels during the period January 1, 1975, through October 31, 1976, is $168,166 and Piedmont's transportation revenues for this period to be refunded through the CTA rate are $27,094.

Based on the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The principal issues before the Commission in this proceeding are also before the North Carolina Court of Appeals in Docket No. 771OUC36, namely, Piedmont's appeal from the Commission's Order Adjusting Rate issued September 22, 1976, in Docket No. G-9, Sub 131D. With respect to these issues the Commission is without jurisdiction to reconsider its prior decision. Nevertheless, it is clear that with the passage of time portions of this earlier Order dealing with a true up through September 22, 1976, are no longer reasonable or even valid. It is also clear that an

absolute true up of Piedmont's CTA rate has never been made. This can only be done on the basis of actual annual volume experience because all data used in the computation of the CTA rate are for 12-month periods. The CTA adjustments made by Piedmont in Docket No. G-9, Subs 13B, C and D were based only on estimated 12-month volumes. Notwithstanding the fact that the Commission approved these adjustments, the Commission never intended for Piedmont's CTA rates to be based on estimates ad infinitum or for Piedmont to retain overcollections resulting from such estimates. The Commission therefore reaffirms its conclusions in Docket No. G-9, Sub 13D, that Piedmont's CTA rate should be subject to an absolute true up. The Commission further concludes that, to the extent that portions of the Order have not been stayed by the Court of Appeals, Appendix A to its Order of September 22, 1976, in this docket should be modified to provide for a true up through October 31, 1976, in order to coincide with the entitlement period of Piedmont's principal supplier.

Since, under the CTA formula, Piedmont's North Carolina - South Carolina supply allocation percentages are frozen at base period levels, the correct or true rates for the period January 1, 1975, through October 31, 1976, should assume a North Carolina allocation factor of 67.82%. These rates should then be applied to actual North Carolina sales volumes to determine the revenues which would have been collected at the true or correct CTA rates.

With respect to the base period margin used in these dockets, the Commission is persuaded by a review of its own files in Docket No. G-9, Sub 13, that the revenues from the rates proposed by Piedmont in that proceeding were understated on Daniel Exhibit 1, Schedule 3-1, by $358,000. Incorporating this error into its determination of the additional gross revenue requirement, the Commission approved the recovery of $357,000 more than would have been necessary to produce the return on common equity of 14.06% which was found to be just and reasonable at that time.

Piedmont's witness contends that the Company inadvertently failed to use the base period margin stated in the Order in any of its CTA calculations and has thereby collected rates designed to protect a smaller margin than was in fact approved. It is clear from Piedmont's filings in Docket No. G-9, Subs 13A through 13E, however, that the Company simply used its own revenue figures to arrive at the base period margin and also increased its cost of gas by an adjustment contained in Daniel Exhibit 1, Schedule 3-2, which approximately offset the $357,000 error in the original Order. The Commission therefore concludes that no adjustment need be made at this time to correct that error.

In summary, based on the foregoing conclusions, the Commission is of the opinion that when Piedmont's CTA rates are trued up on actual annual sales from January 1, 1975, through October 31, 1976, the Company will have tracked its

margin loss due to curtailment for this period which was the intended purpose of the CTA formula from the outset. The total overcollections for this period are $585,044 which includes unrefunded margin on emergency sales in excess of base period levels of $168,166 and transportation revenues of $27,094.

FURTHER CONCLUSION

Witnesses for both Piedmont and the Commission Staff recommended at the hearing that the CTA formula be amended prospectively to provide that the CTA increment would be based on estimated annual volumes and would remain in effect for a full 12-month period. Staff witness Daniel recommended that the formula be revised as follows:

1. The rate should be in effect during Transco's entitlement year of November 1 through October 31.

2. Volumes should be estimated based on Transco's annual projections plus the best estimates available for additional supplies.

3. Provisions should be made for an adjustment without true up during the period when estimated volumes change.

4. The formula should be trued up after the full year has elapsed and all facts with regard to that period are known.

5. That the true up should be accomplished or calculated in a manner similar to that used by witness Daniel in his Exhibits Nos. 1 and 2.

Mr. Daniel further testified that he believed the use of the above method for calculating a CTA formula would eliminate many of the problems that existed in the past in regard to the CTA formula. He testified that there would be a problem with regard to any stub period which resulted from a general rate case, such as recently occurred for Piedmont, and he recommended that the true up of any such stub period be based on the entitlement year in which it occurs using the base period data under which the CTA rate in effect during the stub period was calculated.

Company witness Hinson also testified that he believed an annual rate would be a more appropriate and reasonable method of coping with the problems associated with the curtailment of the gas supply.

Based on the evidence submitted, the Commission concludes that future CTA rates filed by Piedmont should be based on an annual period and should be effective for that annual period. The Commission further concludes that the methodology recommended by Staff witness Daniel provides the most accurate way of calculating this annual CTA rate and

adopts this methodology as the basis for Appendix I attached hereto.

IT IS, THEREFORE, ORDERED as follows:

1. That Appendix A to the Commission's Order issued September 22, 1976, in Docket No. G-9, Sub 131D, is hereby amended to provide for a true up through October 31, 1976, instead of September 22, 1976, and that in all other respects the provisions of said Order are reaffirmed.

2. That Piedmont Natural Gas Company, Inc., shall file with the Commission an accounting of overcollections under its CTA formula which have been refunded since October 31, 1976, through CTA rate adjustments currently in effect.

3. That the provisions of Appendix I attached hereto shall constitute a proposed revision of Piedmont's CTA formula, subject to comments, objections, and additional proposals within 30 days after the date of this Order, at which time the attached Appendix I will become effective as to all subsequent filings.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of June, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

Note: For Appendix I, see official Order in the Office of the Chief Clerk.

COMMISSIONER W. LESTER TEAL, JR., CONCURRING:

The CTA or Curtailment Tracking Adjustment was born on December 12, 1974, in an Order in Docket No. G-9, Sub 131, after having been conceived "on a kitchen table" as a device to protect a given margin level approved by the Commission from erosion occasioned by curtailments of volume by Transco from levels not anticipated in the rate case. The need for such a device is unquestioned. The motive was noble. The curtailment was real. With a pricing structure where all costs are recovered on a unit basis, the CTA, as it was envisioned, would serve the need. You would simply spread the fixed cost over the smaller volumes, establish the new rate, and, later on, you could make an adjustment to correct for errors in the estimate. I find no fault in the motives that spawned the CTA.

With the advantage of hindsight, I find several faults with the CTA that in my considered opinion would warrant its abandonment. Some of these are:

1. The narrative in this case is indicative of the considerable amount of time and effort expended in trying to make it work and the extensive regulation and litigation it has caused.

2. Excess revenues have been collected from one season's users and effectively refunded to users in the following season. The customers involved are not necessarily the same and probably are not the same.

3. Overcollections have been made in one period and refunded in a period in which some of the customers who paid in the overcollections may have been curtailed.

4. The accuracy of the CTA was dependent on Transco's estimate of curtailed volumes. These estimates have been too much of a moving target for their use as a basis for establishing utility rates. It is much like trying to paint a vertical stripe on a moving car standing on a shaky ladder.

5. Even though the purpose was to protect a given margin, no provision was made to take into consideration factors other than volume which affect margins due to curtailment. I have specific reference to the change in margin caused by shifts in the customer mix caused entirely by curtailment and the priorities established by this Commission.

6. The CTA as envisioned by the Staff could perhaps cure the fourth objection by using a full-year period but it would require a period in excess of a year to effect the correction. This is at best a lethargic correction.

7. The CTA has had a fair test with all parties trying to make it work. In my opinion, it has failed its test.

It is not the function of a Commissioner to present testimony, and rightfully so. I will not attempt to present a perfect solution or any solution at all, but since I have advanced the above criticisms, I will offer my opinion as to why the CTA has not lived up to what was hoped for it to achieve.

The margin or element of cost that the CTA was designed to cover is a fixed dollar amount. This amount is constant over time and is unrelated to the volume of gas sold. If this constant total is to be recovered on a volume basis, it is necessary to estimate the expected volumes. Difficulties arise when the original estimated volume of gas is later adjusted due to changes in Transco's curtailment. Thus these price fluctuations can be traced to fluctuations in the estimated volume of gas. Any pricing formula that attempts to factor in time-related costs on a volume basis will create price instability during periods of fluctuating volumes. The time is ripe for a restructuring of rates for natural gas and a return to the basics of rate design so that we can factor in the realities of today. Continuing the band-aid approach is hardly appropriate!

I concur in the extension of the CTA formula as contained in this Order only because no other solution has been presented by any party.

W. Lester Teal, Jr., Commissioner

DOCKET NO. G-9, SUB 170

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., for an Adjustment of its Rates and Charges	) ORDER APPROVING) TRACKING INCREASE) AND DISCHARGING) UNDERTAKING

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on July 29, 1977, at 9:30 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney, Robert K. Koger, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, P. O. Drawer U, Greensboro, North Carolina 27402

For the Using and Consuming Public:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602

For the Public Staff:

Robert F. Page, Assistant Staff Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. 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.

On December 11, 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% customer funds and 25% stockholder funds.

On June 1, 1977, Piedmont Natural Gas Company, Inc. (Piedmont or the Company), filed an application and exhibits in the above-captioned docket seeking to recover or track, through a surcharge effective July 1, 1977, 75% of its costs incurred during the six months ended March 31, 1977, in exploration and development ventures heretofore approved by the Commission. A revised application was filed by Piedmont on June 3, 1977, and was further amended on June 6 and July 5, 1977. The total amount sought to be recovered by Piedmont, after adding undercollections from Docket No. G-9, Sub 157, and deducting tax savings of $44,144.34 and revenues of $9,355.66 from total expenses, is $1,376,523.20. In order to recover this amount during the six months ending December 31, 1977, Piedmont proposes to increase its rates by $.10996 per Mcf.

On June 9, 1977, the Attorney General filed Notice of Intervention in the matter, and by Order issued June 22, 1977, the Commission recognized said Intervention. On June 10, 1977, the Attorney General filed a Motion for Declaration of Scope of Case, Hearing, Notice and Suspension of Proposed Rates. By Order issued June 23, 1977, the Commission set the matter for hearing on July 28, 1977, upon public notice, and suspended the proposed rates pending the filing of an Undertaking to refund any amounts collected thereunder which might ultimately be found unjust and unreasonable by the Commission. The Commission also declared the proceeding to be a case confined to the reasonableness of a specific single rate, involving questions which do not require a determination of overall rate of return, and stated that the case is before the Commission pursuant to G.S. 62-2, 30, 31, 32, and 130 and Commission Rule R1-17(h) established pursuant thereto. On June 30, 1977, Piedmont filed an Undertaking which, by Order issued July 12, 1977, the Commission approved.

On July 7, 1977, the Public Staff filed Notice of Intervention and a Motion Requesting Prefiled Testimony in the matter. A response to the Motion Requesting Prefiled Testimony was filed by Piedmont on July 12, 1977. By Order issued July 13, 1977, the Commission recognized the Intervention of the Public Staff, set a time for prefiling testimony, continued the hearing until July 29, 1977, and required additional notice to the public.

The matter came on for hearing before the full Commission as scheduled. Piedmont offered the testimony and exhibits of the following witnesses: T.C. Coble, Assistant Controller, regarding Piedmont's exhibits pursuant to

Commission Rule R1-17(h)(6) in support of its applications; Earl C. Chambers, Senior Vice President - Supply and Technology, regarding the background of the proceedings and the results of the approved exploration programs; and R.J. Turner, Assistant Treasurer, regarding Piedmont's revenues and expenditures for approved exploration programs and computation of the $.10996 per Mcf surcharge.

The Public Staff offered the testimony of Donald E. Daniel, Coordinator of the Gas and Water Section, Accounting Division, regarding Piedmont's computation of the proposed surcharge and Parker L. Hatcher, Jr., Utilities Engineer, Gas Division, regarding the history of approved exploration and development programs and Piedmont's projected sales over the period for which the surcharge is proposed.

Based on the Petition, as amended, the evidence adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That Piedmont Natural Gas Company, Inc., is a corporation organized under the laws of the State of New York and duly domesticated and engaged in the business of transporting, distributing, and selling gas in North Carolina.

2. That Piedmont is a public utility within the meaning of G.S. 62-2(23) and, as such, is subject to the jurisdiction of this Commission.

3. That by this application, pursuant to Commission Rule R1-17(h), Piedmont is seeking to increase its rates by $.10996 per Mcf, during the period July 1, 1977, through December 31, 1977, in order to recover a net expenditure of $1,376,523, representing 75% ratepayer participation in the five Commission-approved exploration programs for the six months ended March 31, 1977. This net expenditure is computed as follows:

$1,405,290	Total expenses
(9,356)	Total revenues
$1,395,934	Expenses net of revenues
(44,144)	Tax savings
24,733	Undercollection G-9, Sub 157
$1,376,523	Net to be recovered in G-9, Sub 170

4. 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 expenditures of a public utility gas distribution company.

5. That as of June 30, 1977, a total of 118 wells has been drilled in the five Commission-approved exploration

programs resulting in 8| dry holds, 33 gas wells, and 4 oil wells.

6. That a total of $|8,492,224 has been spent in these programs by the five North Carolina gas utilities. Of this amount Piedmont has spent $6,376,089.

7. That estimated gas reserves from the programs for all gas companies are as follows: proved reserves - |,379,473 Mcf; probable reserves - |,397,328 Mcf; possible reserves - 9,670,754 Mcf; and total reserves - 32,447,555 Mcf. Piedmont's shares are 3,433,|8| Mcf; 3,520,422 Mcf; 2,862,|06 Mcf; and 9,8|5,709 Mcf, respectively. Estimated oil/condensate reserves from the five programs for all gas companies are as follows: proved reserves - 457,|87 bbls.; probable reserves - 266,422 bbls.; possible reserves - 226,896 bbls.; and total reserves - 950,505 bbls. Piedmont's shares are |36,489 bbls.; 83,439 bbls.; 68,872 bbls.; and 288,800 bbls., respectively.

8. That the estimated values of the gas and oil reserves from the five programs for all the gas companies are as follows: proved reserves - $2|,77|,|00; probable reserves - $|9,645,339; possible reserves - $|6,678,688; and total reserves - $58,095,|27. The values to Piedmont are $6,552,040; $6,08|,008; $4,955,55|; and $|7,588,599, respectively.

9. That the exhibits filed by Piedmont show the following based on the |2 months ended March 3|, |977:

(i) The net original cost of Piedmont's property used and useful in providing service to the public in North Carolina is $85,564,783.

(ii) The fair value of Piedmont's property used and useful in providing service to the public in North Carolina is $||6,4||,654.

(iii) Piedmont's revenues under rates in effect prior to the increase requested in this docket are estimated at $8|,650,493.

(iv) Piedmont's revenues under the proposed rates are estimated at $83,027,0|6.

(v) Piedmont's reasonable operating expenses are approximately $74,624,973 before expenditures in connection with Commission-approved exploration programs.

(vi) As a result of expenditures in approved exploration programs, Piedmont has increased its ordinary and reasonable expenses by $|,376,523.

(vii) After accounting and pro forma adjustments, Piedmont's rate of return on end-of-period net investment is 8.15% and on fair value rate base is 5.99%.

(viii) After accounting and pro forma adjustments, Piedmont's rate of return on end-of-period common equity is 10.31% and on fair value equity is 5.70%.

10. That the rates of return found just and reasonable in Docket No. G-9, Sub 158, Piedmont's last general rate case, are as follows:

Fair value rate base	6.73%
End-of-period common equity	12.84%
Fair value equity	6.85%

11. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses for the purpose of establishing Piedmont's basic rates, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Whereupon, the Commission reaches the following

CONCLUSIONS

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternative methods of increasing the supply of gas to North Carolina, that the most dependable and economical way of obtaining additional gas is through programs of exploration and development. The Commission therefore established a procedure, Rule R1-17(h), whereby the State's gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenditures at six-month intervals. All of the evidence shows that Piedmont has complied with the requirements of Rule R1-17(h) in the instant proceeding. Finding that Piedmont's expenditures for exploration and development during the period October 1, 1976, through March 31, 1977, are reasonable and that the proposed rates to track these expenditures 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 surcharge of $.10996 per Mcf filed by Piedmont should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Piedmont Natural Gas Company, Inc., to increase its rates to all customers by $.10996 per Mcf, effective on bills rendered on and after July 1, 1977, in order to recover 75% of its net reasonable expenditures in Commission-approved programs of gas exploration and

development during the period October 1, 1976, through March 31, 1977, is hereby approved.

2. That the Undertaking filed by Piedmont on June 30, 1977, is hereby discharged.

3. That Piedmont shall continue its present account to record the revenues received from this adjustment in rates so that the Commission can determine that the revenues collected equal the amounts expended in approved exploration programs.

4. That the attached notice, Appendix A, shall be mailed to all customers of Piedmont along with their next bills, advising them of the action taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This 2nd day of September, 1977.

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

APPENDIX A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Upon application by Piedmont Natural Gas Company, Inc., to recover 75% of its costs incurred between October 1, 1976, and March 31, 1977, 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, 1977, by $.10996 per Mcf on all rate schedules.

PIEDMONT NATURAL GAS COMPANY

DOCKET NO. G-5, SUB 132

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Public Service Company of North Carolina, Inc., for an Adjustment of its Rates and Charges to Recover Costs of Exploration in Approved Programs	) ORDER APPROVING TRACKING INCREASE AND DISCHARGING UNDERTAKING

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on July 29, 1977, at 9:30 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney, Robert K. Koger, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns and Smith, P.O. Box 1406, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602

For the Public Staff:

Robert F. Page, Assistant Staff Attorney, North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P.O. 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.

On December 11, 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% customer funds and 25% stockholder funds.

On June 1, 1977, Public Service Company of North Carolina, Inc. (Public Service or the Company), filed an application and exhibits in the above-captioned docket seeking to recover or track, through a surcharge effective July 1, 1977, 75% of its costs incurred during the six months ended March 31, 1977, in exploration and development ventures heretofore approved by the Commission. The total amount sought to be recovered by Public Service, after adding undercollections from Docket No. G-5, Sub 121, and deducting tax savings of $65,036 and revenues of $17,535 from total expenses, is $1,627,530. In order to recover this amount during the six months ending December 31, 1977, Public Service proposes to increase its rates by $.1000 per Mcf.

On June 9, 1977, the Attorney General filed Notice of Intervention in the matter, and by Order issued June 22, 1977, the Commission recognized said Intervention. On June 10, 1977, the Attorney General filed a Motion for

Declaration of Scope of Case, Hearing, Notice and Suspension of Proposed Rates.

By Order issued June 23, 1977, the Commission set the matter for hearing on July 28, 1977, upon public notice and suspended the proposed rates pending the filing of an Undertaking to refund any amounts collected thereunder which might ultimately be found unjust and unreasonable by the Commission. The Commission also declared the proceeding to be a case confined to the reasonableness of a specific single rate, involving questions which do not require a determination of overall rate of return, and stated that the case is before the Commission pursuant to G.S. 62-2, 30, 31, 32, and 130 and Commission Rule R1-17(h) established pursuant thereto. On June 29, 1977, Public Service filed an Undertaking which, by Order issued June 30, 1977, the Commission approved.

On July 7, 1977, the Public Staff filed Notice of Intervention and a Motion Requesting Prefiled Testimony in the matter. By Order issued July 13, 1977, the Commission recognized the Intervention of the Public Staff, set a time for prefiling testimony, continued the hearing until July 29, 1977, and required additional notice to the public.

The matter came on for hearing before the full Commission as scheduled. Public Service offered the testimony and exhibits of the following witnesses: Allen J. Schock, Vice President - Rates, regarding schedules filed pursuant to Commission Rule R1-17(h) in support of the application and C. Marshall Dickey, Vice President - Gas Supply Services, regarding activities of Tar Heel Energy Corporation (Public Service's wholly-owned subsidiary). Public Service also adopted the testimony of Earl C. Chambers, Senior Vice President - Supply and Technology, Piedmont Natural Gas Company, in Docket No. G-9, Sub 170, regarding the background of the proceedings and the results of the approved exploration programs.

The Public Staff offered the testimony of Donald E. Daniel, Coordinator of the Gas and Water Section, Accounting Division, regarding Public Service's computation of the proposed surcharge and Parker L. Hatcher, Jr., Utilities Engineer, Gas Division, regarding the history of approved exploration and development programs and Public Service's projected sales over the period for which the surcharge is proposed.

Based on the Petition, the evidence adduced at the hearing, 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 corporation organized under the laws of the State of

North Carolina and engaged in the business of transporting, distributing, and selling gas in North Carolina.

2. That Public Service is a public utility within the meaning of G.S. 62-2(23) and, as such, is subject to the jurisdiction of this Commission.

3. That by this application, pursuant to Commission Rule R1-17(h), Public Service is seeking to increase its rates by $.1000 per Mcf, during the period July 1, 1977, through December 31, 1977, in order to recover a net expenditure of $1,627,530, representing 75% ratepayer participation in the five Commission-approved exploration programs for the six months ended March 31, 1977. This net expenditure is computed as follows:

$1,668,462	Total expenses
(17,535)	Total revenues
$1,650,927	Expenses net of revenues
(65,036)	Tax savings
39,682	Interest recoverable from customers
1,957	Undercollection G-5, Sub 126
$1,627,530	Net to be recovered in G-5, Sub 132

4. 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 expenditures of a public utility gas distribution company.

5. That as of June 30, 1977, a total of 118 wells has been drilled in the five Commission-approved exploration programs resulting in 81 dry holes, 33 gas wells, and 4 oil wells.

6. That a total of $18,492,224 has been spent in these programs by the five North Carolina gas utilities. Of this amount Public Service has spent $6,227,097. Estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 11,379,473 Mcf; probable reserves - 11,397,328 Mcf; possible reserves - 9,670,754 Mcf; and total reserves - 32,447,555 Mcf. Public Service's shares are 4,330,827 Mcf; 4,254,884 Mcf; 3,767,386 Mcf; and 12,353,097 Mcf, respectively. Estimated oil/condensate reserves from the five programs for all gas companies are as follows: proved reserves - 457,187 bbls.; probable reserves - 266,422 bbls.; possible reserves - 226,896 bbls.; and total reserves - 950,505 bbls. Public Service's shares are 178,998 bbls.; 97,192 bbls.; 85,412 bbls.; and 361,602 bbls., respectively.

7. That the estimated values of the gas and oil reserves from the five programs for all the gas companies are as follows: proved reserves - $21,771,100; probable reserves - $19,645,339; possible reserves - $16,678,688; and total reserves - $58,095,127. The values to Public Service are

$8,342,104; $7,308,457; $6,463,831; and $22,114,392, respectively, at prices of $1.46 per Mcf for natural gas and $11.28 per barrel for oil/condensate.

8. That the exhibits filed by Public Service show the following based on the 12 months ended March 31, 1977:

(i) The original cost net investment of Public Service's property used and useful in providing service to the public in North Carolina is $94,281,836.

(ii) The fair value of Public Service's property used and useful in providing service to the public in North Carolina is $111,272,228.

(iii) Public Service's revenues under rates in effect prior to the increase requested in this docket are estimated at $69,482,575.

(iv) Public Service's reasonable operating expenses are approximately $61,501,862 before expenditures in connection with Commission-approved exploration programs.

(v) As a result of expenditures in approved exploration programs, Public Service has increased its ordinary and reasonable expenses by $1,627,530.

(vi) After accounting and pro forma adjustments, Public Service's rate of return on end-of-period net investment is 8.46% and on fair value rate base is 7.17%.

(vii) After accounting and pro forma adjustments, Public Service's rate of return on end-of-period common equity is 13.32% and on fair value equity is 8.31%.

9. That the rates of return found just and reasonable in Docket No. G-5, Sub 119, Public Service's last general rate case, are as follows:

Fair value rate base	7.28%
End-of-period common equity	13.50%
Fair value equity	8.30%

10. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses for the purpose of establishing Public Service's basic rates, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Whereupon, the Commission reaches the following

CONCLUSIONS

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternative methods of increasing the supply of gas to North Carolina, that the most dependable and economical way of obtaining additional gas is through programs of exploration and development. The Commission therefore established a procedure, Rule R1-17(h), whereby the State's gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenditures at six-month intervals. All of the evidence shows that Public Service has complied with the requirements of Rule R1-17(h) in the instant proceeding. Finding that Public Service's expenditures for exploration and development during the period October 1, 1976, through March 31, 1977, are reasonable and that the proposed rates to track these expenditures 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 surcharge of $.1000 per Mcf filed by Public Service should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Public Service Company of North Carolina, Inc., to increase its rates to all customers by $.1000 per Mcf, effective on bills rendered on and after July 1, 1977, in order to recover 75% of its net reasonable expenditures in Commission-approved programs of gas exploration and development during the period October 1, 1976, through March 31, 1977, is hereby approved.

2. That the Undertaking filed by Public Service on June 29, 1977, is hereby discharged.

3. That Public Service shall continue its present account to record the revenues received from this adjustment in rates so that the Commission can determine that the revenues collected equal the amounts expended in approved exploration programs.

4. That the attached notice, Appendix A, shall be mailed to all customers of Public Service along with their next bills, advising them of the action taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This 2nd day of September, 1977.

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

APPENDIX A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Upon application by Public Service Company of North Carolina, Inc., to recover 75% of its costs incurred between October 1, 1976, and March 31, 1977, 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, 1977, by $.1000 per Mcf on all rate schedules.

PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.

DOCKET NO. G-1, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of United Cities Gas Company for an Adjustment of its Rates and Charges to Recover its Costs of Exploration in Approved Programs	) ORDER APPROVING) TRACKING INCREASE) AND DISCHARGING) UNDERTAKING

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on July 29, 1977, at 9:30 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding; and Commissioners Ben E. Roney, Robert K. Koger, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, P. O. Drawer U, Greensboro, North Carolina 27402

For the Using and Consuming Public:

Jesse C. Brake, Assistant Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602

For the Public Staff:

Robert F. Page, Assistant Staff Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Commission Staff:

Antoinette R. Wike, Associate Commission Attorney, North Carolina Utilities Commission, P. O. 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.

On December 11, 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% customer funds and 25% stockholder funds.

On July 13, 1977, United Cities Gas Company (United Cities or the Company) filed an application and exhibits in the above-captioned docket seeking to recover or track, through a surcharge effective July 15, 1977, 75% of its costs incurred during the six months ended March 31, 1977, in exploration and development ventures heretofore approved by the Commission. The total amount sought to be recovered by United Cities, after adding undercollections from Docket No. G-1, Sub 47, and deducting tax savings of $2,948 and revenues of $869 from total expenses, is $84,422. In order to recover this amount during the six months ending December 31, 1977, United Cities proposes to increase its rates by $.020 per therm (Ccf). The application was accompanied by an Undertaking by United Cities to refund such amounts collected under the proposed rates as the Commission may later find to be unjust and unreasonable.

By Order issued July 14, 1977, the Commission set the matter for hearing on July 29, 1977, upon public notice, and allowed the proposed rates to become effective pursuant to Undertaking. The Commission also declared the proceeding to be a case confined to the reasonableness of a specific single rate, involving questions which do not require a determination of overall rate of return, and stated that the case is before the Commission pursuant to G.S. 62-2, 30, 31, 32, and 130 and Commission Rule R1-17(h) established pursuant thereto.

On July 20, 1977, the Attorney General filed Notice of Intervention in the matter and by Order issued July 25, 1977, the Commission recognized said Intervention.

The matter came on for hearing before the full Commission as scheduled. United Cities offered the testimony and exhibits of Glenn T. Rogers, Vice President - Gas Supply, regarding the activities of UCG Energy Corporation (United Cities wholly-owned subsidiary). United Cities also adopted the testimony of Earl C. Chambers, Senior Vice President - Supply and Technology for Piedmont Natural Gas Company, in

Docket No. G-9, Sub 170, regarding the background of the proceedings and the results of the approved exploration programs.

The Public Staff offered the testimony of William L. Dudley, Staff Accountant, regarding United Cities' computation of the proposed surcharge and Parker L. Hatcher, Jr., Utilities Engineer, Gas Division, regarding the history of approved exploration and development programs and United Cities' projected sales over the period for which the surcharge is proposed.

Based on the Petition, the evidence adduced at the hearing, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That United Cities Gas Company is a corporation organized under the laws of the States of Illinois and Virginia and duly domesticated and engaged in the business of transporting, distributing, and selling gas in North Carolina.

2. That United Cities is a public utility within the meaning of G.S. 62-2(23) and, as such, is subject to the jurisdiction of this Commission.

3. That by this application, pursuant to Commission Rule R1-17(h), United Cities is seeking to increase its rates by $.020 per therm (Ccf) during the period July 15, 1977, through December 31, 1977, in order to recover a net expenditure of $84,422, representing 75% ratepayer participation in the five Commission-approved exploration programs for the six months ended March 31, 1977. This net expenditure is computed as follows:

Expenses to be recovered (113,615 x .75)	$85,211
Prior expenses to recover	75,381
Prior tax savings	(8,254)
Expense recovered	(64,099)
Revenue from sales (1,157.69 x .75)	(869)
Cash tax savings	(2,948)
Net to be recovered	$84,422

4. 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 expenditures of a public utility gas distribution company.

5. That as of June 30, 1977, a total of 118 wells has been drilled in the five Commission-approved exploration

programs resulting in 8| dry holes, 33 gas wells, and 4 oil wells.

6. That a total of $18,492,224 has been spent in these programs by the five North Carolina gas utilities. Of this amount United Cities has spent $270,664.

7. That estimated gas reserves from the programs for all gas companies are as follows: proved reserves - 11,379,473 Mcf; probable reserves - 11,397,328 Mcf; possible reserves - 9,670,754 Mcf; and total reserves - 32,447,555 Mcf. United Cities' shares are 132,408 Mcf; 173,199 Mcf; 138,776 Mcf; and 444,383 Mcf, respectively. Estimated oil/condensate reserves from the five programs for all gas companies are as follows: proved reserves - 457,187 bbls.; probable reserves - 266,422 bbls.; possible reserves - 226,896 bbls.; and total reserves - 950,505 bbls. United Cities' shares are 3,461 bbls.; 3,340 bbls.; 2,642 bbls.; and 9,443 bbls., respectively.

8. That the estimated values of the gas and oil reserves from the five programs for all the gas companies are as follows: proved reserves - $21,771,100; probable reserves - $19,645,339; possible reserves - $16,678,688; and total reserves - $58,095,127. The values to United Cities are $232,356; $290,546; $232,415; and $755,317, respectively, at prices of $1.46 per Mcf for natural gas and $11.28 per barrel for oil/condensate.

9. That the exhibits filed by United Cities show the following, based on the 12 months ended September 30, 1976.

(i) The net original cost of United Cities' property used and useful in providing service to the public in North Carolina is $1,967,256.

(ii) United Cities' revenues, as adjusted, under rates in effect prior to the increase requested in this docket are estimated at $1,290,501.

(iii) United Cities' reasonable operating expenses, as adjusted, are approximately $1,150,603 before expenditures in connection with Commission-approved exploration programs.

(iv) As a result of expenditures in approved exploration programs, United Cities has increased its ordinary and reasonable expenses by $84,422.

(v) After accounting and pro forma adjustments, United Cities' rate of return on end-of-period net investment is 7.11%.

(vi) After accounting and pro forma adjustments, United Cities' rate of return on end-of-period common equity is 5.52%.

10. That the rates of return found just and reasonable in Docket No. G-1, Sub 47, United Cities' last general rate case, are as follows:

End-of-period net investment 9.46%
End-of-period common equity 14.00%

11. That, since exploration tracking rate collections represent the recovery of costs not included in operating expenses for the purpose of establishing United Cities' basic rates, the proposed increase will not result in the Company's rates of return exceeding those approved in its last general rate case.

Whereupon, the Commission reaches the following

CONCLUSIONS

In Docket No. G-100, Sub 22, the Commission concluded, based upon extensive studies and investigations of alternative methods of increasing the supply of gas to North Carolina, that the most dependable and economical way of obtaining additional gas is through programs of exploration and development. The Commission therefore established a procedure, Rule R1-17(h), whereby the State's gas utilities may participate in approved exploration ventures and track a portion of their reasonable expenditures at six-month intervals. All of the evidence shows that United Cities has complied with the requirements of Rule R1-17(h) in the instant proceeding. Finding that United Cities' expenditures for exploration and development during the period October 1, 1976, through March 31, 1977, are reasonable and that the proposed rates to track these expenditures will not result in United Cities' rates exceeding the returns allowed the Company in its last general rate case, the Commission concludes that the surcharge filed by United Cities should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of United Cities Gas Company to increase its rates to all customers by $.020 per therm (Ccf), effective on bills rendered on and after July 15, 1977, in order to recover 75% of its net reasonable expenditures in Commission-approved programs of gas exploration and development during the period October 1, 1976, through March 31, 1977, is hereby approved.

2. That the Undertaking filed by United Cities on July 13, 1977, is hereby discharged.

3. That United Cities shall continue its present account to record the revenue received from this adjustment in rates so that the Commission can determine that the revenues collected equal the amounts expended in approved exploration programs.

4. That the attached notice, Appendix A, shall be mailed to all customers of United Cities along with their next bills, advising them of the action taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This 2nd day of September, 1977.

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

APPENDIX A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Upon application by United Cities Gas Company to recover 75% of its costs incurred between October 1, 1976, and March 31, 1977, 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 15, 1977, by $.020 per therm (Ccf) on all rate schedules.

UNITED CITIES GAS COMPANY

DOCKET NO. G-33

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
City of Wilson, North Carolina -	) AMENDED ORDER
Application for Waiver of Effective Date	) DENYING WAIVER
for Complying with Section 192.457(b),	) AND CITING
Part 192, Title 49, Code of Federal	) NONCOMPLIANCE
Regulations	)

BY THE COMMISSION: On June 14, 1976, the City of Wilson, North Carolina (hereinafter referred to as the City or Wilson), filed with this Commission an application seeking waiver of the effective date for compliance with certain requirements of the minimum Federal safety standards for pipeline facilities and the transportation of gas, 49 CFR 192, Subpart I.

Section 192.457(b)(3) of Subpart I provides that bare or coated distribution pipelines installed prior to August 1, 1971, must, not later than August 1, 1976, be cathodically protected "in areas in which active corrosion is found." It further provides that "the operator shall determine the areas of active corrosion by electrical survey, or where electrical survey is impractical, by the study of corrosion and leak history records, by leak detection survey or by other means."

Wilson requested the Commission to extend the deadline for compliance with the requirements of 49 CFR 192.457(b)(3) from August 1, 1976, to August 1, 1979.

The Gas Section of the Commission Engineering Staff reported that Wilson has 87 miles of coated and wrapped steel mains, 24 miles of bare steel mains, 5,219 coated and wrapped steel services, 198 bare steel services, and 322 plastic or copper services. Since the major part of its system is under pavement, the City has chosen to cathodically protect all of its coated and wrapped steel mains and to use leak history records instead of electrical surveys to determine areas of active corrosion on its bare mains.

The Staff also reported that the City conducts systemwide leakage surveys at least once every three years, semiannually in areas where active corrosion is found, and the City is presently obtaining information on the installation of large diameter plastic pipe to augment its corrosion protection program.

In support of its application the City showed that as of June 14, 1976, 68.8 miles of mains comprising 62% of its coated and wrapped mains were under cathodic protection. A rectifier has been installed to protect an additional 8.9 miles of mains, but the City must eliminate shorts and insulate couplings before protection is completed.

In August 1975, the City determined that 4.75 miles of bare mains existed in areas of active corrosion. As of June 14, 1976, 0.75 miles of these mains had been replaced with coated and wrapped steel and were under cathodic protection. According to the City's leak history records, there is no active corrosion on the remaining 20 miles of bare mains.

Wilson proposed the following program to achieve system compliance by the end of the waiver period:

DATE	ANNUAL EXPENDITURES	PERCENTAGE OF PROTECTION
1976-77	$20,000.00	75%
1977-78	20,000.00	85%
1978-79	20,000.00	100%

The City stated that it plans to achieve compliance with the minimum Federal standards by installing anodes, replacing bare mains and services, insulating valves and fittings, installing test stations, and maintaining that portion of the system which is already in compliance.

On June 30, 1976, the Commission issued an Order Granting Waiver effective 60 days from the date of receipt by the Office of the Secretary of the Department of Transportation.

On September 28, 1976, the Commission received a letter from the Office of Pipeline Safety Operations, Department of Transportation, objecting to the granting of the waiver and staying the Commission's action. Further revision of the

Order dated October 19, 1976, was made pursuant to telephonic recommendations from the Secretary in January and March 1977.

Because the City of Wilson has not completely disregarded its responsibilities in regard to the corrosion control regulations: having attempted to protect all of its coated steel pipeline whether or not it is in an area of active corrosion; having an ongoing hot-spot and replacement program for its bare mains; having proposed a definitive plan which in time would apparently result in the elimination of this noncompliance, the Commission feels it can defer the imposition of a penalty while the City of Wilson executes a plan to achieve compliance. Failure by the City of Wilson to either satisfactorily implement or progress its plan will result in a review of the situation and the moving by the Commission to seek the penalties heretofore deferred.

IT IS, THEREFORE, ORDERED as follows:

1. That the City of Wilson be notified that this Commission has found it to be in violation of Section 192.457(b) of Title 49 of the Code of Federal Regulations for corrosion control since August 1, 1976.

2. That the City of Wilson shall prepare and follow a written plan for achieving appropriate corrective action. The plan shall include: a. the scope of work which is to be performed, b. the commencement and projected completion dates of the project including scheduled man hours and scheduled dollar allocations, and c. the accomplishment timetable detailed in sufficient manner to show actual man hours devoted to the project, project expenditures, and percent of project completion, said plan shall be filed with the Commission within 30 days of this Order.

3. That during the period of continuing noncompliance to §192.457(b) the City of Wilson shall file with the Commission progress reports on the form entitled, "NCUC Cathodic Protection Report Rev. I," attached hereto as Appendices I and II, semiannually, for the periods ending February 1 and August 1, not later than February 15 and August 15, respectively.

4. That the penalty against the City of Wilson for its failure to comply with the corrosion control regulations is herewith deferred but that the City of Wilson be informed that failure by it to maintain a current status with the corrective action plan or reporting of the progress being made shall be sufficient cause for the Commission to immediately act on assessing a civil penalty.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of April, 1977.

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

Note: For Appendices I and II, see official Order in the Office of the Chief Clerk.

DOCKET NO. G-9, SUB 156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Piedmont Natural Gas Co., Inc. - Request) ORDER
to Amend its Corrosion Control Program) GRANTING
Regarding Protection of Bare Mains) AMENDMENT

BY THE COMMISSION: The Office of Pipeline Safety Operations of the United States Department of Transportation promulgated Minimum Federal Safety Regulations 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 Regulations for Natural Gas Pipeline Safety as adopted by the Department of Transportation in 49 CFR Part 192 and by reference all subsequent amendments. A new Subpart I was added to Part 192 of Title 49 of the Code of Federal Regulations, effective August 1, 1971, regarding "Requirements for Corrosion Control".

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 natural gas facilities in North Carolina. The Commission has entered into an agreement and has been certified by the United States Department of Transportation to regulate and/or inspect all natural gas pipeline facilities in North Carolina for compliance with the Minimum Federal Safety Regulations other than master meter customers.

On June 15, 1976, the Commission issued an Order under Docket No. G-9, Sub 156, granting Piedmont Natural Gas Co., Inc. (Piedmont) an extension of the effective date of compliance with the provisions of 49 CFR 192.457(b) from August 1, 1976, to August 1, 1979, based on Piedmont's projected program for compliance. On August 13, 1976, the Department of Transportation, through Cesar DeLeon, Acting Director, Office of Pipeline Safety Operations, advised the Commission that the above Order Granting Waiver had been stayed.

On October 5, 1976, the Commission issued a Show Cause Order to Piedmont for failure to actively implement its cathodic protection plan presented in its Waiver Request on

May 11, 1976, and accepted by the Commission in its Order Granting Waiver on June 15, 1976.

As result of the Show Cause Hearing on November 1, 1976, the Commission issued a Recommended Order to Seek Civil Penalty for Non-Compliance. This Order of March 23, 1977, instructed Piedmont to implement its Cathodic Protection Plan and follow a schedule for compliance. Monetary sanctions in the amount of $1,000.00 were ordered against Piedmont and subsequently collected for failure to meet the July 29, 1976, deadline for compliance of 49 CFR 192.457(b).

In Piedmont's plan for protection, the company designated a single corrosion leak as an area of active corrosion and stated that each such leak would require isolation and protection. This included both bare and coated and wrapped mains.

On July 6, 1977, Piedmont asked the Commission for permission to amend its Cathodic Protection Plan regarding protection of bare mains. Piedmont states:

"As work under our program has progressed in the various business districts, two major problems have emerged.

"1) The installation and protective process has proven itself to be incredibly complex. The piping networks to be protected combine bare steel, coated steel, and cast iron. Field joints connect this combination of materials and are welded or made with compression couplings. Many of these joints are, or act as, insulators. In addition to this problem, each section to be protected not only must be isolated from other gas mains and structures but also must be made electrically continuous within itself by locating and bonding across those compression fittings which act as insulators. In all, a myriad of problems can develop, and in fact, have developed, to complicate and slow the application of cathodic protection in business areas. These concepts and systems which are theoretically feasible are often not capable of reasonable or practical implementation.

"2) The handling of bare steel mains has created the second major problem. In our opinion, in order to apply cathodic protection to bare steel mains which are in close proximity to other underground facilities, companies must introduce so much protective current that the other facilities could be exposed to potentially damaging interference.

"Our concern for these problems is by no means new. In an earlier report dated May 11, 1977, we strongly encouraged the Commission to adopt a system of 'hot spot' protection as a workable and practical method of solving these problems of cathodic protection of bare mains. Unfortunately, since that date, our experience has only

reinforced the belief that modifications to the existing policy are desperately needed.

"Our renewed proposal for a system of 'hot spot' protection of bare mains would concentrate protective measures at known places of corrosion activity. Although every pipe would not be cathodically protected, those pipes and areas needing the greatest attention would be protected through the installation of anodes. We have developed, and are proposing, methods for initiating and implementing the change to 'hot spot' protection:

"1) Anodes will be installed when a corrosion-caused leak on a bare steel main is discovered in the normal course of leak repair operations.

"2) At locations where corrosion-caused leaks on bare mains have already been repaired and plotted on our maps since August 1, 1971, we will go back and install anodes. In order to monitor our progress in this area, we will, upon approval, provide a list, by district, of the total number of incidents of corrosion-caused leaks on bare mains that have been repaired with no cathodic protection applied. We will report progress at intervals established by the Commission staff.

"3) If additional corrosion activity is reported in an area where 'hot spot' protective measures have been applied, we will attempt to isolate and cathodically protect the affected section of bare main or replace the old pipe with a steel coated and cathodically protected main.

"4) When corrosion activity is discovered on a bare steel service line, 'hot spot' protection may be applied if the general condition of the pipe appears to be good. Otherwise, the service will be replaced with steel and either cathodically protected or inserted with plastic."

The Staff of the Commission's Pipeline Safety Section investigated Piedmont's claim regarding its problems encountered concerning protection of bare mains and concurs with Piedmont on this matter. After review of Piedmont's proposed amendment to its Cathodic Protection Plan regarding protection of bare mains, the Staff recommended that the Commission accept the change in Piedmont's plan concerning protection of bare mains.

Based on the information of record noted above and the entire record in this matter, the Commission finds and concludes that the amendment to Piedmont's Cathodic Protection Plan, requested by Piedmont and recommended by the Commission Staff, should be granted.

IT IS, THEREFORE, ORDERED as follows:

That Piedmont's Cathodic Protection Plan regarding protection of bare mains be amended to the extent that:

1. Anodes will be installed when a corrosion-caused leak on a bare steel main is discovered in the normal course of leak repair operations.

2. At locations where corrosion-caused leaks on bare mains have already been repaired and plotted on maps since August 1, 1971, Piedmont will go back and install anodes. In order to monitor progress in this area, Piedmont will provide a list, by district, of the total number of incidents of corrosion-caused leaks on bare mains that have been repaired with no cathodic protection applied, and will report progress at intervals established by the Commission staff.

3. If additional corrosion activity is reported in an area where "hot spot" protective measures have been applied, Piedmont will attempt to isolate and cathodically protect the affected section of bare main or replace the old pipe with a steel coated and cathodically protected main.

4. When corrosion activity is discovered on a bare steel service line, "hot spot" protection may be applied if the general condition of the pipe appears to be good. Otherwise, the service will be replaced with steel and either cathodically protected or inserted with plastic.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of August, 1977.

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

DOCKET NO. G-9, SUB 167

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Piedmont Natural Gas Company, Inc.,) ORDER
for Authority to Participate in Eascogas LNG Project)

BY THE COMMISSION: By Petition filed with the Commission on March 8, 1977, Piedmont Natural Gas Company, Inc. (Piedmont) seeks approval from this Commission for its participation in a project designed to supplement Piedmont's flowing gas supplies by obtaining liquefied natural gas (LNG) from Algeria. Under the terms of the proposed agreement, Piedmont would pay approximately 2.78% of the cost and receive approximately 2.73% of the gas purchased by Eascogas LNG, Inc. from Algonquin Gas Transmission Company and Public Service Electric and Gas Company. In order for Piedmont to be able to receive this gas, it must execute

three precedent agreements. Such agreements provide for purchase of the gas, provision of terminalling services and transportation service. All three agreements must be executed on or before March 28, 1977. The petition does not recite a specific figure, a high-low range or even an estimate of the ultimate cost of such gas to the consumer in North Carolina.

The Public Utility Act (Chapter 62 of the General Statutes of North Carolina) requires a certificated public utility natural gas company, such as Piedmont, to provide good and reliable natural gas service to its customers within its franchised territory. How the company obtains its long-term gas supplies is not a matter for this Commission, but is a matter for the exercise of the company's business judgment. It is the policy of this Commission that the risk of obtaining long-term gas supplies is a reasonable and ordinary business risk of the utility company and is not the risk of the customers or this Commission. If and when any gas flows to North Carolina under the arrangements presented in the petition, that will be the appropriate time for action by this Commission to exercise its statutory power with regard to the price at which such gas may be sold. In any event, since the first deliveries of such gas are not scheduled until 1978, any present opinion expressed by this Commission with regard to the propriety of purchasing such gas would merely be advisory and would not be binding on the Commission in 1978.

The Commission, therefore, concludes that the petition filed by Piedmont in this docket should neither be approved or disapproved and that the Company should be advised to take whatever steps it deems reasonable and prudent, in the exercise of its best managerial judgment, to secure the availability of future supplies of gas sufficient to comply with the service obligations of its franchise.

IT IS SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of March, 1977.

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

DOCKET NO. G-5, SUB 122

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Public Service Company of North Carolina, Inc. - Failure to Comply with Minimum Federal Safety Regulations 49 CFR 192 Subpart I	) ORDER TO SEEK CIVIL PENALTY FOR NON-COMPLIANCE

HEARD IN: Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on December 1, 1976

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; Commissioners Ben E. Roney and W. Scott Harvey

APPEARANCES:

For the Respondent:

F. Kent Burns, Attorney at Law, Post Office Box 1406, Raleigh, North Carolina 27602
For: Public Service Company of North Carolina, Inc.

For the Commission Staff:

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

BY THE COMMISSION: Under provisions of G.S. 62-50, the N.C.U.C. has pipeline safety jurisdiction over all natural gas utilities in North Carolina. The Commission has entered into agreement and has been certified by the U.S. Department of Transportation to inspect, enforce, and/or regulate all natural gas pipeline facilities in North Carolina, other than master metered facilities, for compliance with the Minimum Federal Safety Regulations 49 CFR 192. These safety requirements were adopted by the Commission Order issued December 30, 1970, in Docket No. G-100, Sub 13.

In June 1970 the Secretary of Transportation issued a proposed rulemaking for the minimum requirements for corrosion control. Subsequently, on June 25, 1971, regulations for the minimum requirements for corrosion control of natural gas pipelines were adopted into the safety regulations under Subpart I of Part 192 and became effective July 31, 1971, said amendment being also adopted by the Commission.

In general, Section 192.455 of Subpart I requires all buried or submerged pipelines installed after the July 31, 1971, effective date to have an external coating and to have a cathodic protection system designed to protect the pipeline in its entirety installed within one year after completion of construction (unless the operator demonstrates certain conditions showing that those requirements need not be met).

Subsection (b)(3) of Section 192.457 generally provides that buried or submerged distribution pipelines installed prior to the effective date (August 1, 1971) must no later than August 1, 1976, be cathodically protected "in areas in which active corrosion is found." It is further required

that "the operator shall determine the areas of active corrosion by electrical survey, or where electrical survey is impractical, by the study of corrosion and leak history records, by leak detection survey, or by other means."

Subsections 192.465 (a) and (d) require that existing cathodic protection sections be monitored once each calendar year at intervals not exceeding 15 months and that prompt remedial action be taken to correct deficiencies indicated by that monitoring.

On August 13, 1976, Public Service Company of North Carolina, Inc., filed an application for extension of the August 1, 1976, deadline to a date not later than August 1, 1979, in order to comply with the requirements of Subpart I. In support of its application, Public Service stated that there were approximately 450 miles of bare distribution mains on its system which, it contends, are impractical to protect and must therefore be replaced; that its corrosion program was fully incorporated in early 1973; that it plans to protect all small systems (approximately 35% of its distribution system) before attempting to protect its larger systems; that only 20 of the 75 smaller towns had sufficient anodes installed; that a six-week training course for its new corrosion personnel would be conducted; that surveys to determine the suitability of rectifiers would be performed; and that corrosion leak plotting was being implemented.

During August and September 1976, the Gas Section of the Commission Engineering Staff performed an audit of Public Service's cathodic protection program on its distribution systems. The Staff's audit report cited deficiencies in compliance with the Minimum Safety Regulations of Section 192, Subpart I, as outlined below:

1. §192.455 Public Service had failed to provide cathodic protection to approximately 80 miles of new distribution pipeline installed after the July 31, 1971, effective date.

2. §192.457(b) Public Service had failed to determine areas of active corrosion on its distribution pipelines which existed at the time of the adoption of Subpart I.

3. §192.465(a) Public Service had failed to monitor its existing cathodic protection systems.

4. §192.465(d) Public Service had failed to take remedial action where monitoring indicated remedial action was necessary.

5. §192.469 Public Service had not performed adequate field testing at sufficient points to determine the adequacy of cathodic protection.

The Staff's report indicated that training of the Company's corrosion personnel was being performed after the deadline for compliance with the regulations.

Finding that Public Service had failed to show grounds for the extension of the August 1, 1976, deadline and that Public Service had not submitted an adequate plan for achieving compliance, the Commission on October 22, 1976, cited Public Service for noncompliance with the safety regulations and ordered that the Company appear before the Commission on November 22, 1976, to show cause why the Commission should not seek monetary sanctions as provided by G.S. 62-50(d) against Public Service for its failure to comply with the requirements of Subpart I. By order issued October 28, 1976, the hearing was continued to December 1, 1976. A motion filed November 15, 1976, by Public Service to postpone the hearing 30 days was denied by Order issued November 24, 1976.

The matter came on for hearing on December 1, 1976, in the Commission Library. Richard W. Belcher of the Engineering Division, Gas Section Staff, testified as to the findings of the Staff's safety audit of Public Service's corrosion records and field procedures. Mr. Belcher's testimony tended to show the following:

1. Public Service did not institute the distribution system cathodic protection procedures required in the regulations until after March 1973.

2. Public Service did not determine areas of active corrosion during the period July 31, 1971, through August 1, 1976, as required by §192.457(b).

3. Public Service did not cathodically protect new pipelines as required by §192.455, the total miles unprotected being approximately 80 miles.

4. Public Service began protecting its small existing systems first, but as of July 29, 1976, only approximately 135 miles of 2,640 existing miles were in cathodic protection installations throughout the entire distribution systems.

5. Public Service failed to properly monitor 430 cathodic protection sections and failed to properly perform at least 707 individual inspections required by §192.465(a).

6. Public Service failed to take remedial action required by §192.465(d) in 133 cathodic protection sections when indicated during monitoring. Indications on Company records noted no remedial action for periods of two and three years.

7. Public Service's field testing procedures were not at sufficient points to determine the adequacy of the cathodic protection.

8. Public Service has not isolated its smaller systems where anodes are installed, and in such areas the level of protection is not adequate and the anodes are being drained by the metallic structures to which the gas pipe is shorted. Section 192.467 requires electrical isolation.

Joseph P. Noon, Senior Vice President of Operations, testified on behalf of Public Service. Mr. Noon's testimony tended to show the following:

1. Public Service did not employ distribution corrosion control personnel until early 1973.

2. Public Service has a good safety record, and no corrosion leak has resulted in an accident on its system.

3. Public Service hired and trained additional personnel in the summer of 1976 to implement and institute its cathodic protection program.

4. Public Service has begun to plot corrosion-caused leaks in an effort to determine areas of corrosion as evidenced by known leaks.

5. Public Service has not had sufficient numbers of trained personnel to implement corrosion control monitoring and remedial action.

6. Public Service has modified its corrosion manual.

7. Public Service requests three years to implement and complete the cathodic protection program.

8. Public Service has had knowledge of the requirements of 49 CFR 192, Subpart I, since 1971.

9. Public Service contends that using electrical surveys to find areas of active corrosion would necessitate isolation of the gas pipeline, making electrical surveys impractical in most cases.

At the conclusion of the hearing, Public Service requested and was allowed 60 days within which to file an exhibit showing areas of active corrosion on the Company's distribution system. This exhibit, filed on January 11, 1977, shows that Public Service has a total of 3,132.29 miles of pipelines of which 306.42 miles (in 432 cathodic protection sections) are designated as areas of active corrosion.

Based on the foregoing and the record in this matter, the Commission makes the following

FINDINGS OF FACT

1. Public Service Company did not implement a cathodic protection program for its distribution pipeline pursuant to

the Minimum Federal Safety Regulations, 49 CFR 192, Subpart I, effective July 31, 1971, until early 1973.

2. Public Service did not employ corrosion personnel for its distribution a. In the amount of $1,000 for Public Service's failure to achieve compliance sufficient personnel to carry out its program prior to the August 1, 1976, deadline for compliance with the 49 CFR 192.457.

3. Public Service is in noncompliance with the following sections of 49 CFR 192, Subpart I, for distribution pipeline cathodic protection and testing:

(a)	§192.455	Cathodic protection of new pipeline. Approximately 80 miles of new pipeline were not cathodically protected as of August 1, 1976.
(b)	§192.457(b)	Establishment of areas of active corrosion and cathodic protection of existing pipelines. Areas of active corrosion were not determined and only approximately 135 miles of existing lines were cathodically protected as of July 29, 1976.
(c)	§192.465(a)	Monitoring cathodic protection installations. Surveys of 450 cathodic protection installations, totaling 707 inspections for the period March 1973 through July 1976, were not properly conducted.
(d)	§192.465(d)	Remedial action on faulty cathodic protection installations. A total of 133 installations displayed low readings with no remedial action recorded as of July 29, 1976.
(e)	§192.467	Electrical isolation of pipeline for cathodic protection.
(f)	§192.469	Testing cathodic protection installations at sufficient points to determine adequacy of protection level.

4. Since the issuance of the Commission's Order of October 22, 1976, Public Service has commenced to eliminate some noncompliances cited in the Staff's report.

5. Public Service does not expect that it can comply with the requirements of 49 CFR 192, Subpart I, within less than a three-year period.

6. Public Service has not presented a detailed plan and timetable of the minimum action required in order to comply with the regulations within a three-year period.

Based on the evidence presented in this matter, the Commission reaches the following

CONCLUSIONS

1. That Public Service Company has failed to comply with the following provisions of 49 CFR §192, Subpart I, for the cathodic protection of its distribution system: Section §192.455, Cathodic protection of new pipelines; Section §192.457(b), Establishment of areas of active corrosion and cathodic protection of existing pipelines; Section §192.465(a), Monitoring cathodic protection installations; Section §192.465(d), Remedial action on faulted cathodic protection installations; Section §192.467, Electrical isolation of pipeline for cathodic protection; and Section §192.469, Sufficient testing of cathodic protection installations.

2. That Public Service Company has not presented a detailed plan for achieving compliance with Subpart I of the regulations.

3. That Public Service is in noncompliance with the provisions of the Commission's rules and regulations as prescribed under 49 CFR §192, Subpart I, and has not met the burden of proof to show cause why it should not be fined pursuant to G.S. 62-50. Therefore, the Commission concludes that monetary sanctions should be imposed on Public Service and that said sanctions should be borne solely by the stockholders of the Company.

4. That Public Service has a good safety record and is increasing its action toward compliance. For these reasons, the Commission further concludes that the full amount of the monetary sanctions authorized by law would not be appropriate at this time. Failure to comply over extended periods of time, however, cannot be overlooked. This is an appropriate instance for which monetary sanction should be approved. This penalty is being imposed in such a manner as to make the penalty more severe as the length of time of noncompliance is extended. It is intended also to serve as an incentive for Public Service Company to bring its system into compliance as soon as it can and, thereby, avoid further penalty.

IT IS, THEREFORE, ORDERED:

1. That the Legal Division of the Commission Staff shall proceed, pursuant to G.S. 62-50, to seek monetary sanctions against Public Service Company of North Carolina, Inc., for its failure to comply with the provisions of 49 CFR §192, Subpart I, the Minimum Federal Safety Regulations dealing

with external corrosion control of buried or submerged pipelines, as follows:

a. In the amount of $1,000 for Public Service's failure to achieve compliance by August 1, 1976; and

b. In daily amounts as set forth in Appendix I ranging from $5 to $30 per day for continuing noncompliance.

Further, that the foregoing sanctions shall be borne solely by the shockholders of the Company.

2. That Public Service shall prepare and submit a program, acceptable to the Commission, that will achieve compliance with 49 CFR 192, Subpart I, on or before December 31, 1979, said report to be filed within 60 days of the issuance of this Order.

3. That further monetary sanctions for continuing noncompliance with 49 CFR 192, Subpart I, shall be stayed pending satisfactory progress toward and completion of the plan to achieve compliance by December 31, 1979.

4. That Public Service shall file a report of its progress toward full compliance with 49 CFR 192, Subpart I, every six months for the periods ending August 1 and February 1 to be received by the Gas Section of the Commission before August 15 and February 15, respectively. The report form and the initial filing date will be furnished by the Commission. A finding by the Commission that Public Service Company is in compliance with 49 CFR 192, Subpart I, at any time before December 31, 1979, will serve to stay that part of the sanctions referred to in Ordering Paragraph 1 on and after the date of such finding.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of March, 1977.

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

APPENDIX I

Period	Daily Amount
April 1, 1977 through September 30, 1977	$ 5
October 1, 1977 through March 31, 1978	10
April 1, 1978 through September 30, 1978	15
October 1, 1978 through March 31, 1979	20
April 1, 1979 through September 30, 1979	25
October 1, 1979 through December 31, 1979	30

Total amounts due to be paid within 10 days of the end of each period.

DOCKET NO. G-35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Kings Mountain's Failure to Comply with the Commission's Pipeline Safety Standards in Section 192 Title 49, Code of Federal Regulations	)	ORDER REQUIRING WRITTEN REPORT

BY THE COMMISSION: The Natural Gas Pipeline Safety Act (49 U.S.C.A. 167, et seq., Pub. L. 90-48, 82 Stat. 720) (the Act) was adopted August 12, 1968. The Act requires the Secretary of Transportation (the Secretary) to "establish minimum Federal safety standards for the transportation of gas and pipeline facilities". The Office of Pipeline Safety Operations of the United States Department of Transportation promulgated Minimum Federal Safety Regulations 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 Regulations for Natural Gas Pipeline Safety as adopted by the Department of Transportation in 49 CFR Part 192 and by reference all subsequent amendments.

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 natural gas facilities in North Carolina. The Commission has entered into an agreement and has been certified by the United States Department of Transportation to regulate and/or inspect all natural gas pipeline facilities in North Carolina for compliance with the Minimum Federal Safety Regulations other than master meter customers.

G.S. 62-50(a) provides that the Commission may require intrastate utilities including municipals owning natural gas distribution systems to file such information as may be necessary to show compliance with the safety standards promulgated by the Commission. Where the Commission has reason to believe that any interstate natural gas company or any intrastate natural gas utility (including municipals owning natural gas systems) is not in compliance with the Commission's safety standards, the Commission may, after notice and hearing, order said interstate natural gas company or intrastate natural gas utility (including municipals owning gas systems) to take such measures as may be necessary to comply with such standards.

Furthermore, G.S. 62-50(d) and (e) state: "(d) Any person who violates any provision of this section, or any regulation of the Utilities Commission issued thereunder, shall be subject to a civil penalty not to exceed one thousand dollars ($1,000.00) for each violation for each day that the violation persists, the maximum civil penalty not

to exceed two hundred thousand dollars ($200,000.00) for any continuing violation; (e) any action for civil penalty or any claim for said penalty may be compromised by the Utilities Commission and settled for an agreed amount. In determining the amount of the penalty imposed in civil action, or the amount agreed upon in compromise, the amount of the penalty shall be considered in relation to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after any prior notification of a violation."

The City of Kings Mountain owns and operates a natural gas distribution system totaling 55 pipeline miles and serving about 2500 customers.

The Commission's Pipeline Safety Staff has conducted routine inspection audits to determine whether natural gas system operators are complying with the Pipeline Safety Regulations. Commission records indicate that results of inspection audits in August 1976, January 1977, and July 1977 have found repeated violations of the following regulations:

Section 192.55	Steel Pipe Specifications
Section 192.181	Distribution Valve Plan
Section 192.747	Distribution Valve Inspection
Section 192.201	Relief Device Settings
Section 192.619-62	Maximum Allowable Operating Pressure
Section 192.603-5	Operation and Manual Maintenance
Section 192.615	Emergency Plan
Section 192 Subpart I	Corrosion Control

As the result of the failure by the City of Kings Mountain to satisfactorily comply with the Pipeline Safety Regulations, the Commission is of the opinion that steps must be taken to insure the safety of the lives and property of persons who come within the vicinity of the Kings Mountain Natural Gas Pipelines.

All information filed pursuant to this Order will be considered regarding whether a civil penalty should be imposed and the amount thereof.

IT IS, THEREFORE, ORDERED as follows:

(1) That pursuant to G.S. 62-50(a), the City of Kings Mountain file a detailed written report within 30 days from the date of this Order setting out the status of all known deficiencies to the Pipeline Safety Regulations and a detailed written plan for achieving compliance with each regulation in violation and all other information which Kings Mountain regards as appropriate.

(2) That failure to comply with this Order shall result in the issuance of a Show Cause Order ultimately seeking assessment of appropriate penalties.

ISSUED BY ORDER OF THE COMMISSION.
This 17th day of August, 1977.

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

DOCKET NO. H-59, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of the Housing Authority and Redevelopment Commission of Pembroke for a Certificate of Public Convenience and Necessity	)	ORDER GRANTING CERTIFICATE

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, at 10:00 a.m. on July 13, 1977

BEFORE: Chairman Tenney I. Deane, Jr. (Presiding) and Commissioners Robert K. Koger and John W. Winters

APPEARANCES:

For the Applicant:

Ertle Knox Chavis, Locklear, Chavis & Strickland, P. O. Box 877, Lumberton, North Carolina 28358

For the Commission Staff:

Edward B. Hipp, Commission Attorney, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission upon application of the Housing Authority and Redevelopment Commission of Pembroke (hereincalled the "Local Authority"), for a Certificate of Public Convenience and Necessity for the establishment, construction, operation and maintenance of 100 dwelling units of low rent public housing for local citizens and for authorization to exercise its right of eminent domain in connection with the construction thereof.

By Order dated June 13, 1977 the Commission set the application for public hearing on July 13, 1977, and ordered that notice of the hearing be published in a newspaper having general circulation in the area.

At the hearing, Applicant introduced into evidence its various exhibits and the affidavit of publication of the notice of the hearing. In addition, Applicant offered the testimony of Mr. Clinton L. Thomas, Jr., Secretary of Applicant Housing Authority and Redevelopment Commission of Pembroke.

Mr. Philip Ray Locklear, P. O. Box 329, Pembroke, North Carolina offered testimony on behalf of his grandmother, Mrs. Bonnie Locklear of Pembroke. Mrs. Bonnie Locklear is the major heir to approximately 19 acres of the estimated

total 28 acres required for the 100 unit low-cost housing project which includes a Day Care Center which will accommodate about 75 children, ages 3 - 5 years.

No other parties either protesters or intervenors offered testimony.

Based upon the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That the Local Authority of the Town of Pembroke, North Carolina, is a duly created and existing body corporate pursuant to the Housing Authority Law as set forth in Chapter 157-1, et seq., and 160A-500, et seq., of the General Statutes of North Carolina and powers contained in its Articles of Incorporation or any amendments thereto.

2. The Local Authority caused its application to be properly filed with the Commissior on June 2, 1977, in which it applied for a Certificate of Public Convenience and Necessity for the establishment of 100 dwelling units of low rent public housing for local citizens and for authorization to exercise its right of eminent domain in connection with the construction thereof. By order dated June 13, 1977, the Commission set the time, date and place of hearing on the matter and required that notice be published in a newspaper having general circulation in the Pembroke, North Carolina area not later than five (5) days prior to July 8, 1977, the date for filing of protests. Said notice was published in The Carolina Indian Voice, a newspaper having general circulation in the area, on June 30, and July 2, 1977.

3. That the Town Council of the Town of Pembroke regularly, lawfully, and unanimously enacted an ordinance designated as "The Housing Authority and Redevelopment Commission of Pembroke" (herein referred to as the "Local Authority"); that thereafter a Certificate of Incorporation was issued by the Secretary of State of the State of North Carolina, on the 30th day of November, 1973, a copy of which was attached to the application, marked EXHIBIT A.

4. At a regular meeting of the Commissioners of the Local Authority held on March 6, 1974, a Resolution was unanimously adopted authorizing the submission of an Application for a low-rent housing program. A copy of that Resolution was attached to the application, marked EXHIBIT B.

5. At a regular session of the Board of Commissioners of the Town of Pembroke, held at the Town Hall of the Town of Pembroke on March 4, 1974, unanimously adopted a Resolution approving an application for a preliminary loan for low-rent public housing. A copy of that Resolution was attached to the Application and marked EXHIBIT C.

6. Subsequently, the Department of Housing and Urban Development approved 100 housing units for the Town of Pembroke and a preliminary loan in the amount of $379,000.00 for the purpose of making surveys and planning in connection with the low-rent housing project and other incidentals preparatory to the construction of said units, and a Preliminary Loan Contract #A-2669 was entered into between the Housing Authority and Redevelopment Commission and the Department of Housing and Urban Development, dated the 20th day of June, 1974. A copy of this contract was attached to the application, marked EXHIBIT D.

7. Testimony of Mr. Clinton L. Thomas, Jr., Secretary of the Local Authority and the supporting data attached to the "Application for Low-Rent Housing Programs" reveals a need for this project. Statistics gathered by the 1960 United States Census show that there are 199 renter-occupied units within the Corporate limits of the Town of Pembroke, of which 16 are in dilapidated conditions, and of the 425 classified as in sound condition, 43 of these lack some or all facilities. The total population of the Town of Pembroke, North Carolina, according to the 1960 census was 1982 persons. Based upon said statistical information and upon survey, inspection, analysis and study, the Town Council of the Town of Pembroke and the Housing Authority and Redevelopment Commission have found that there is a need for low-rent public housing which is not now being met by private enterprise.

8. Testimony of Mr. Philip Ray Locklear, who has served in the role of adviser to his grandmother, Mrs. Bonnie Locklear, testified that he nor his grandmother were opposed to the construction of the 100 units of low-rent housing and the Day Care Center and that there was a bona fide need for these facilities.

Mr. Locklear testified that he and his grandmother intervened in the proceeding to register their opposition to the purchase price the Local Authority had offered for the approximately 18 acres of land owned by their family and required for the proposed 100-unit low-rent housing project. Also, they were not interested in selling an additional tract of approximately 1.20 of an acre which would make the total acreage of the housing project large enough to accommodate the Day Care Center. The opposition to the sale of the additional 1.20 acre is not because of the Day Care Center but Mr. Locklear and his grandmother have other planned uses for this particular parcel of land.

9. Mr. Edward B. Hipp, the Commission Attorney, advised Mr. Locklear that the Commission's duty was to determine if a need existed for low-rent public housing and not to determine the value of the property required for the development and construction of the project. The proper forum for the determination of a fair price for the real properties required for the project barring mutual agreement by the parties would be in the Courts of Robeson County.

10. The Commission finds that there exists a need for low-rent public housing for the local citizens of Pembroke which is not being met by private enterprise.

11. The Local Authority has taken all the steps required by law to enable it to duly make this application and to put itself in a position to establish and develop 100 units of low-rent public housing including a Day Care Center for its local citizens.

CONCLUSIONS

The Local Authority of the Town of Pembroke, North Carolina, has met the requirements of applicable law with respect to acquiring a Certificate of Public Convenience and Necessity and the authority to exercise the right of eminent domain in the acquisition of the property required for the construction, maintenance and operation of 100 units of low-rent public housing for local citizens and has demonstrated a need for said additional housing in the community.

IT IS, THEREFORE, ORDERED as follows:

1. That the Local Authority of the Town of Pembroke, North Carolina, be, and hereby is, granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 100 units of low-rent public housing for local citizens and that this Order shall itself constitute such Certificate of Public Convenience and Necessity.

2. That the Local Authority of the Town of Pembroke, North Carolina, be, and hereby is, granted authority to exercise the right of eminent domain in the acquisition of the property on which said units including the Day Care Center are to be placed.

ISSUED BY ORDER OF THE COMMISSION.
This 3rd day of August, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

DOCKET NO. B-69, SUB |2|

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Continental Southeastern Lines, Inc., P. O. Box 2387, Charlotte, North Carolina 28234 - Petition by Sandhills Area Chamber of Commerce, Incorporated, for Improved Bus Service and the Establishment of a Centrally Located Bus Station Facility in the Aberdeen, Pinehurst and Southern Pines Communities by Continental Southeastern Lines, Inc.	)	RECOMMENDED ORDER DENYING PETITION TO RELOCATE BUS STATION

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on January 5, |977, at |0:00 a.m.

BEFORE: Hearing Commissioner J. Ward Purrington

APPEARANCES:

For the Applicant:

R. C. Howison, Jr., and Edward S. Finley, Jr., Joyner and Howison, Attorneys at Law, P. O. Box |09, Raleigh, North Carolina 27602
For: Continental Southeastern Lines, Inc.

For the Intervenors:

W. Lamont Brown, Brown and Pate, Attorneys at Law, Post Office Box ||6, Southern Pines, North Carolina 28387
For: Sandhills Area Chamber of Commerce, Inc.

For the Commission Staff:

Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 99|, Raleigh, North Carolina 27602

PURRINGTON, HEARING COMMISSIONER: On November 26, |976, the Sandhills Area Chamber of Commerce, Incorporated (Chamber), Southern Pines, North Carolina, petitioned the Commission for improved bus service to Aberdeen, Pinehurst and Southern Pines, North Carolina for the existing bus station in Aberdeen to be moved to a more central location.

The Commission, believing that the Petition raised questions affecting the public interest, issued an Order on December |0, |976, setting the matter for public hearing on January 5, |977, in the Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina.

The January 5, 1977, hearing was held as scheduled and the following witnesses appeared on behalf of the Chamber; William E. Parfitt, President of the Pinehurst Village Council; Jack S. Younts, Chairman of the Chamber's Transportation Committee; E. J. Austin, Mayor of Southern Pines; Phillip S. Brown, Executive Director of the Episcopal Home for the Aged; Robert Peele, Postmaster of Southern Pines; Floyd M. Sayre, Jr., Executive Vice President of the Chamber and Harris Blake, President of Pinehurst Hardware and Supply Company.

Thomas B. Davis, Area Sales Manager for Continental Southeastern Lines, Inc. (Continental) and Ray H. Stewart, Local Agent for Continental, appeared as witnesses for Continental.

Upon inquiry, Counsel for the Chamber indicated that the request for improved bus service contained in the Chamber's Petition referred to improved bus service between the Sandhills Area and Raleigh. Counsel for Continental contended that since the Petition referred only to bus service in general, the scope of the hearing should be limited to the relocation of the bus station only. The Hearing Commissioner, noting that the Petition mentions bus service in general terms and that Continental is not franchised to serve between the Sandhills Area and Raleigh, ruled that the complaint regarding bus service was vague and ambiguous and therefore the scope of this hearing would be limited to the relocation of the bus station.

Witness Parfitt testified for Complainant that he had first purchased a home in Pinehurst in 1955. His familiarity with the bus station arises from taking his nieces and nephews to catch the bus. He stated that he considered it unsafe to take his nieces and nephews into the darkened alley at the present bus station. He indicated that he had been to the station about four times within the last year. On cross examination, Mr. Parfitt said that he did not personally use the bus and that he knew of no crimes which had occurred around the present location. Mr. Younts testified as Chairman of the Transportation Committee of the Chamber. He stated that he has attended meetings in which alternate locations for a bus station were considered. He indicated that the AMTRAK station was considered promising by his Committee but was rejected by Continental. Mr. Younts also said he considered Bell's Amoco, a former location of the bus station, to be more conveniently located than the present facility since passengers are not now loaded in Pinehurst or Southern Pines. Witness Younts also reviewed a number of other locations which his Committee has considered. He stated that the Intersection of I5-50I is the center of the Sandhills area, and that while the Town of Pinebluff is in the same area, his testimony relates to the triangle of Pinehurst, Southern Pines and Aberdeen. On cross examination, Mr. Younts indicated that he did not know that buses could be flagged down on the road, that he has not personally taken a bus from the area in about seven

years and that no one in his family has taken the bus in or out of the triangle area (Pinehurst, Southern Pines and Aberdeen) within the last year.

Witness E. J. Austin stated that Southern Pines is the largest town in the area and that, in his opinion, more citizens from that town used the bus as a means of transportation. Mr. Austin offered a map of the area and expressed belief that the present station was not located near the center of population. He indicated that he did not ride the bus personally but did use it for express and that members of his family used it for transportation. On cross examination Witness Austin admitted that the Southern Pines and Aberdeen city limits almost join but noted that the present bus station is in Southern Aberdeen. He stated there were a lot of low income and retired persons in Southern Pines who he thought would ride the bus, but he had made no study of who would ride the bus. Upon further cross examination, Witness Austin indicated that his Southern Pines office is about two to three miles from the existing bus station but that he felt a more convenient site could be found. On redirect, he indicated that he had received some complaints from merchants in Southern Pines concerning the present location for express shipments. On re-cross he testified that these complaints involved general discussions and that a medical doctor was the only complainant he could specifically remember.

Witness Phillip S. Brown testified that the average age of persons living at the Episcopal Home is 82 years and that his residents felt more secure at the former location. He stated that parking is sometimes a problem at the present location and the lighting is inadequate for people with poor eyesight. On cross examination, he indicated that a staff person must wait for the buses to depart about once every three months. Mr. Brown stated that about three of the 100 residents of the church facility use the bus on a regular basis. He has not seen the bus station personally.

Witness Robert Peele testified that prior to the relocation of the bus station from Southern Pines to its present Aberdeen site, mail could be transported to the bus station and dispatched twice per day. However, since postal regulations prohibit carriage of mail across delivery zones, the Southern Pines Post Office cannot take its mail to the Aberdeen bus station. Consequently, the mail has only gone out once per day since the station was relocated.

Witness Floyd Sayre provided background data relative to the dispute between the Chamber and Continental over location of the bus station.

He offered photographs of the present bus station. Mr. Sayre expressed the opinion that the appearance of the existing location is intolerable and that passengers must be loaded in an unpaved back alley where only very poor lighting is available. He further stated that he had seen

unsightly signs on the windows and had observed trash near the entrance. He stated that the population of Pinehurst is 1400; Aberdeen, 1600; and Southern Pines, 8,000 and that he felt the present station was located away from the center of population. Mr. Sayre testified that the Chamber has suggested the following sites as alternatives to the present location and reviewed the situation as to each site.

(1) AMTRAK station
(2) Kyle Stephenson's property (The Three Pigs)
(3) Sandhill's Auto Parts
(4) Thomas Oil Company Property
(5) Service station on U. S. Highway 1
(6) Location near U. S. 15-501 and U. S. 1 intersection
(7) Building next to Fast Fare Food Store

Harris Blake testified that no member of his family uses the bus for transportation, that he has received freight by bus but does not use it for shipping. Mr. Blake's business is located five miles from the bus station, but he might use the station more for freight if it was more centrally located. On cross examination, he stated that he might use the bus for receiving inbound freight but he did not have authority to direct the mode of transportation.

Thomas B. Davis, testifying for Continental, stated that his company tries to locate in areas that are convenient to its customers, and surveys indicate that lower income individuals are its main customers. Witness Davis stated that local agents are paid 15% of gross receipts and that the company does not guarantee leases made by its agents. He indicated that Ray Stewart, the local agent in the Sandhills Area, is a good agent and operates the local station efficiently. Mr. Davis stated that it is difficult to get qualified, dependable agents, and the company would not want to replace Mr. Stewart in order to relocate the station. He offered an exhibit indicating that revenues at the new station (January-May, 1976) exceeded revenues at the old station (January-May, 1975) by approximately $4,000.

During this same period of 1976 revenues from other North Carolina stations were generally declining as compared to revenues for 1975. Collections Agent Stewart receives a commission of approximately 15%, from which he must pay the expenses of his operation, including bus station rental. Witness Davis stated that the local Chamber Committee was to find a suitable location on Highway 1 prior to September 1, 1976, or "forget about it." Continental did not hear from them prior to that deadline. Mr. Davis indicated that the alternate sites suggested by Witness Sayre were either not available, too expensive or would require a new agent. He did state that Sandhills Auto Parts Building might be suitable, if available. On cross examination, Mr. Davis stated that the existing station is not centrally located but that he is pleased that revenues have increased and he would prefer not to move as a result of those increased receipts. He indicated that his company would consider

moving if a new location was found suitable to Mr. Stewart and which better served the needs of the public and the company.

Ray H. Stewart testified that he has served as local agent for about six years. He moved to the present location when he was given less than seven days' notice to vacate the previous site on U.S. 1. Mr. Stewart stated the present location is better than the previous one (which had no cover for passengers) because it has a large waiting room and is heated in winter and cooled in summer. He also indicated that the unsightly signs had been removed and that, in his opinion, the two floodlights for lighting in the rear are sufficient, particularly since only one bus arrives after 8:00 p.m. Witness Stewart stated that from December 20, 1976, until January 4, 1977, he had conducted a traffic survey at his station which showed that 40 people from Aberdeen rode the bus, 28 from Pinebluff, 19 from Southern Pines and 6 from Pinehurst. He also indicated that the present Aberdeen station is 2.2 miles from Pinebluff city limits, 4.6 miles from Pinehurst city limits and 2.2 miles from Southern Pines city limits. He stated that the alternate sites suggested by Witness Sayre were either unavailable, too expensive, required a new agent or were otherwise not acceptable. He stated that, if available, the Sandhills Auto Parts building might be acceptable. Mr. Stewart said he would be willing to relocate if a more suitable location were found but that he believes the present location is centrally located for people who use the bus.

Based upon the testimony at the hearing, the exhibits filed therein and from the record as a whole, the Hearing Commissioner makes the following

FINDINGS OF FACT

(1) Continental Southeastern Lines, Inc. (Continental) is a certificated carrier, licensed under Certificate No. B-69 to transport passengers and freight in North Carolina, including the area of Pinehurst, Southern Pines, Aberdeen and Pinebluff (hereinafter called Sandhills Area).

(2) Continental currently operates a bus station for the Sandhills Area through Ray H. Stewart, its local agent, which station is presently located in the Town of Aberdeen.

(3) The bus station was moved to the present site in September, 1975.

(4) Since the time the bus station was moved to its present location, revenues have increased.

(5) Of the passengers riding the bus between December 20, 1976, and January 4, 1977, 40 were from Aberdeen, 28 from Pinebluff, 19 from Southern Pines and 6 from Pinehurst.

(6) The existing bus station is located 2.2 miles from Pinebluff city limits, 2.2 miles from Southern Pines city limits, and 4.6 miles from Pinehurst city limits.

(7) The present bus station is adequate to serve the citizens of the Sandhills Area and is safer and more suited for a bus station than the previous location.

Based upon the foregoing Findings of Fact and the record as to a whole, the Hearing Commissioner reaches the following

CONCLUSIONS

This docket was initiated by a Petition of the Sandhills Area Chamber of Commerce, Incorporated, (Chamber) and as Petitioner (Complainant), the Chamber has the burden of proof to show that the existing bus station is inadequate, poorly located, and not suited for the needs of the Sandhills Area. The Chamber has failed to carry that burden.

The Chamber argues that the existing location is not centrally located and thus, is not suited to the needs of the citizens of the Sandhills Area. It further alleges that the station is located in an unsafe area and not easily accessible to the public. The Hearing Commissioner finds these contentions unpersuasive and not supported by the greater weight of the evidence.

Although the present station is not located in the geographic center of the Sandhills Area, it is only 4.6 miles from Pinehurst and 2.2 miles from Southern Pines and Pinebluff - distances which the Hearing Commissioner concludes are reasonable. It is also significant that the ridership has increased since the station was relocated which indicates that the existing location is convenient for those citizens wishing to use bus services. While witnesses for the Chamber reported general complaints from businessmen concerning express shipments, it is noted that express revenues, as well as passenger revenues, have increased at the Aberdeen station.

Several witnesses for the Chamber contend the present station is unsafe due to its downtown location and poor lighting conditions. A review of the evidence concerning the safety conditions indicate that the statements were general in nature and no witness could recall any crimes, injuries or accidents occurring at or near the station. While lighting at the loading area could possibly be improved, the evidence reveals that the area is equipped with floodlights and that only one bus arrives after 8:00 p.m. The Hearing Commissioner concludes that not only is the existing station safe and adequately lighted but that the present facility represents, in many respects, an improvement over the previous location. For example, the present station, unlike the previous one, has a waiting room

which is heated in the winter and cooled in the summer. Likewise, buses can move to the rear of the building for loading and unloading, thus, avoiding traffic congestion from loading operations on the main street.

Witness Robert Peele stated that the postal service picks up the mail in Southern Pines at 6:00 p.m. Prior to the relocation of the bus station, mail was additionally delivered to the station at noon and thus dispatched twice daily. Postal regulations prohibit the Southern Pines postal officials from driving to Aberdeen to deliver the mail to the present bus station. Although it might be desirable for the mail to be dispatched twice daily, the Hearing Commissioner believes, and concludes, that any inconvenience in mail deliveries results from the inflexibility of postal regulations and not from the actions of Continental or its local agent in locating the bus station in Aberdeen.

The Hearing Commissioner has considered and reviewed the alternative locations discussed by the parties to this action. While some of the locations might be nearer the center of population, there is no evidence that these locations are more conveniently located for persons using bus service. Additionally, the record indicates that all of the suggested alternatives are either unavailable, too expensive or would require a new local agent. One alternative location (Sandhills Auto Parts Building) appeared to have potential as a compromise site and might still be agreed upon by the parties if it is available; but the question here is the suitability of the existing station.

It should be noted that from January to May, 1976, the total revenues from passenger and freight service amounted to $18,536 or approximately $3,707 per month. Since the local agent, who receives only 15% of this amount, must pay his own expenses, the choices available to him are necessarily limited.

In an area which has several distinct communities, it is virtually impossible to choose a bus station location that is satisfactory to everyone. While the present facility is not perfect, the Hearing Commissioner concludes that its location, considering the record as a whole, is sufficient and adequate for the needs of the Sandhills Area. This Order is not intended to imply that the present facility is the only possible site for a bus station. As indicated above, if the parties to this complaint should find a new facility that is acceptable to the Chamber, Continental and its local agent, the Commission, in all probability, would have no objection to relocation of the bus station. Based on the overall record in this case and the suggested alternatives, however, intervention by the Commission to affect relocation at this time is not warranted.

IT IS, THEREFORE, ORDERED that the Petition of the Sandhills Area Chamber of Commerce, Incorporated, is, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of March, 1977.

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

DOCKET NO. B-339

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Williams Bus Rental, c/o Theodore Williams, Route 2, Box 37-A, Ebony, Virginia - Application for Authorization to Transport Passengers	) RECOMMENDED ORDER) GRANTING APPLICATION)

HEARD IN: Warren County Courthouse, Warrenton, North Carolina, on October 27, 1977

BEFORE: Hearing Examiner Antoinette R. Wike

APPEARANCES:

For the Applicant:

T. T. Clayton, Clayton & Balf, 307 W. Franklin Street, Warrenton, North Carolina 27589

For the Public Staff:

Dwight W. Allen, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

WIKE, HEARING EXAMINER: By application filed on August 30, 1977, Theodore Williams, d/b/a Williams Bus Rental, seeks common carrier authority to transport passengers from Warrenton, North Carolina, over S. R. 1001 to Henderson, North Carolina, and thence over S. R. 39 to Townsville, North Carolina, and return, serving all intermediate points. On September 9, 1977, the Commission issued an Order setting the matter for hearing and requiring the Applicant to give public notice. On October 11, 1977, the Public Staff of the Commission filed Notice of Intervention, which was recognized by Order issued October 12, 1977. The Commission received no protests or other motions to intervene in the matter. Notice of the application and hearing was published in The Warren Record on September 15 and 22, 1977.

At the call of the hearing, Theodore Williams was present and represented by counsel. He testified that he is 42 years old; that for four years he has operated a bus service

transporting school and church groups; that he uses two 39-passenger buses now and if the proposed authority is granted he probably will acquire another bus; that he has received several requests, including one from an official of Vance-Granville Community College, to operate the proposed service; that a number of people travel between Vance and Warren Counties to and from work; that no other bus company offers service along the proposed route; that it had been suggested that he charge $.70 one way from Warrenton to Henderson and $1.55 on to Townsville; that he believes he would have sufficient ridership to enable him to break even.

Clarence Davis, Sheriff of Warren County, testified that he has known Theodore Williams for 15 years; that Mr. Williams' character and reputation in the community are good; that, while he does not live on the proposed route, he travels almost daily on it and has heard some fifteen to twenty people there discuss bus service with Mr. Williams; that there is no existing bus service over the proposed route; that such service would be cheaper than personal transportation.

Julius Banzet, retired Chief Judge of the 9th Judicial District Court, testified that he has known Theodore Williams for eight or nine years; that Mr. Williams' character and reputation are excellent; that many people living in or near Warrenton and either work or attend school in Vance County; that he would like to have bus service which would put him in contact with Greyhound in Henderson.

Betsy Frazier, a native of Warren County, testified that she has known Theodore Williams for five years and he is dependable and of good character; that Warren County is a poor county and many people there do not have private automobiles; that she goes to Henderson once every week or two and would ride Mr. Williams' bus; that she also would allow her teenage son to ride it.

Richard H. Greene of Macon, owner of RHG Insurance Agency and Funeral Home, testified that he has known Theodore Williams for ten years; that Mr. Williams is an outstanding person; that Warren County residents now hitchhike and carpool to Henderson; and that the proposed service would provide convenience and economy.

E. A. Turner, an insurance agent and funeral home manager in Warrenton and Chairman of the Warren County Board of Education, testified that he has known Theodore Williams for 15 years; that Mr. Williams is of good character and that he loves buses; that there is no bus service along the proposed route; that many people there work and shop in Henderson.

The Applicant also tendered ten witnesses whose testimony would have been identical to that presented. The public Staff offered no evidence. At the close of the hearing it was agreed that Mr. Williams would meet with people along the proposed route and submit a schedule of operations as a

late filed exhibit. This exhibit, which was filed on November 10, 1977, is summarized as follows:

Departure	Arrival/Departure	Arrival
Warrenton 7:00 A.M.	Henderson 7:45 A.M.	Townsville 8:15 A.M.
3:00 P.M.	3:45 P.M.	4:15 P.M.
Townsville 8:15 A.M.	Henderson 8:45 A.M.	Warrenton 9:30 A.M.
4:15 P.M.	4:45 P.M.	5:30 P.M.

Based upon the foregoing, the evidence adduced at the hearing, and the entire record in this matter, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the Applicant Theodore Williams, d/b/a Williams Bus Rental, has made application to this Commission for common carrier authority to transport passengers over the following route: from Warrenton, North Carolina, over S.R. 1001 to Henderson, North Carolina, thence over S.R. 39 to Townsville, North Carolina, and return, serving all intermediate points.

2. That the Applicant now owns two 39-passenger buses and has total assets of approximately $34,000.00.

3. That the Applicant has operated an exempt charter bus service for four years.

4. That no common carrier bus service is presently rendered by any authorized motor carrier over the proposed route.

5. That the proposed service will not unlawfully affect service to the public by other public utilities.

6. That the public convenience and necessity require the proposed service to be rendered, according to the schedule submitted, Monday through Friday.

7. That the Applicant is fit, willing and able to properly perform the proposed service.

8. That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

Whereupon the Hearing Examiner reaches the following

CONCLUSIONS

The Hearing Examiner concludes that the proposed service is in the public interest; that there is a need and demand for such service to be rendered twice daily as scheduled, Monday through Friday, which 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 properly perform the proposed service; that the Applicant is solvent and financially able to furnish adequate service on a continuing basis; and that, the Applicant's having met the burden of proof prescribed by statute, the Application herein should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Theodore Williams, d/b/a Williams Bus Rental, for authority to engage in the transportation of passengers, as more particularly described in Exhibit A attached hereto and made a part hereof, be, and the same is hereby, approved.

2. That Theodore Williams, to the extent he has not done so, shall file with the Commission evidence of insurance, tariff of fares, rates and charges, timetables and lists of equipment to be used in connection with the authority herein acquired within thirty (30) days from the date this Order is issued.

3. That the Applicant shall maintain his books and records in such a manner that all the applicable items of information required in the prescribed Annual Report to the Commission can be readily identified and can be utilized by the Applicant in the preparation of said Annual Report.

4. That unless the Applicant complies with the requirements set forth in Decretal Paragraph 2 above, and begins operation as authorized within a period of thirty (30) days after this order becomes final, unless such time is extended by the Commission upon written request, the operating authority granted herein shall cease and determine.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of December, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

Docket No. B-339

Theodore Williams
d/b/a Williams Bus Rental
Route 2, Box 37A
Ebony, Virginia 23845

EXHIBIT A

Motor Passenger Carrier

Transportation of passengers, over the following route: from Warrenton, North Carolina, over S.R. 1001 to Henderson, North Carolina, thence over S.R. 39 to Townsville, North Carolina, and return, serving all intermediate points.

DOCKET NO. B-331

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Pleasants Travel Service, 2601 Springwood Drive, Greensboro, North Carolina - Application for Brokers License	) RECOMMENDED ORDER) GRANTING BROKERS) LICENSE)

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 11, 1977

BEFORE: Jane S. Atkins, Hearing Examiner

APPEARANCES:

For the Applicant:

Flossie Cooper Pleasants (For Herself), Pleasants Travel Service, 2601 Springwood Drive, Greensboro, North Carolina

For the Commission Staff:

Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

ATKINS, HEARING EXAMINER: By Application filed with the Commission on December 27, 1976, the Applicant Flossie C. Pleasants, Pleasants Travel Service, 2601 Springwood Drive, Greensboro, North Carolina, seeks a broker's license pursuant to N.C.G.S. 62-263 to act as a broker in intrastate operations from all points in Guilford County to all points in North Carolina and return. By Order issued January 4, 1977, the Commission, being of the opinion that said Application was a matter affecting the public interest, assigned the matter for hearing in the Commission Hearing Room on February 11, 1977, and required that protests, if any, be filed with the Commission at least 10 days prior to the hearing date. No one petitioned to intervene in the matter or protested the Application.

The matter came on for hearing February 11, 1977, at 10:00 a.m. in the Commission Hearing Room. The Applicant and an attorney for the Commission Staff were present for the hearing.

Flossie Pleasants took the stand on her own behalf and testified that she holds authority from the Interstate Commerce Commission (ICC) to act as a broker in interstate operations; that she has been in the tourist business for a number of years; and that she now plans to conduct tours within North Carolina. Ramona Curtis testified for the

Applicant and stated that she had known Mrs. Pleasants since 1955 and has been on trips with her in the past; that she feels Mrs. Pleasants is capable of providing the services of a broker in North Carolina; that there is a need for her services; and that Mrs. Pleasants has a good reputation. Also testifying for the Applicant was Margaret S. McHaffey. Mrs. McHaffey stated that she feels there is a need for the services for which the Applicant seeks authority and that Mrs. Pleasants can very adequately provide those services.

Based upon the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That the Applicant has authority to act as a broker in interstate operations from the ICC.

(2) That the Applicant has had several years of experience in the tour business.

(3) That the Applicant is not an employee or agent of any licensed motor common carrier.

(4) That the Applicant proposes to use and engage only those motor carriers authorized by this Commission to transport passengers by motor vehicle in intrastate commerce in North Carolina.

(5) That the service proposed by the Applicant is desired and will be used by the public.

(6) That the Applicant is fit, willing and able to properly perform the proposed service.

(7) That the Applicant has filed with the Commission a valid and sufficient bond of the type required by G. S. 62-263(e) and Commission Rule R2-66(c).

Based on the foregoing Findings of Fact, the Hearing Examiner makes the following

CONCLUSIONS

The Applicant has satisfied the statutory requirement by meeting the burden of proof that she is fit, willing and able to properly perform the proposed service, and is able to conform to North Carolina law and to Commission rules and regulations pertaining to brokers. The proposed service is consistent with the public interest and public policy.

The Hearing Examiner is of the opinion and hereby concludes that the brokers license applied for in this Application should be granted.

IT IS, THEREFORE, ORDERED that the Application in Docket No. B-331 be granted and that the Applicant Flossie C.

Pleasants, Pleasants Travel Service, 2601 Springwood Drive, Greensboro, North Carolina, be issued a license to engage in the business of a broker for tours from all points in Guilford County to all points in the State of North Carolina and return; and that the bond filed with the Commission 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 28th day of March, 1977.

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

DOCKET NO. B-209, SUB 11

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Duke Power Company - Investigation of Proposed Increase in Motor Bus Passenger Fares, Charges and Tariff Adjustments in the City of Durham, North Carolina, and Vicinity	) ORDER GRANTING PARTIAL RATE INCREASE

HEARD IN: County Commissioners' Room, 6th Floor, Durham County Office Building, 220 East Main Street, Durham, North Carolina, on September 20, 1977

BEFORE: Commissioner Leigh H. Hammond, Presiding, and Commissioners Ben E. Roney and Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., and Philip M. Van Hoy, Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28211

For the City of Durham:

William I. Thornton, Jr., City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701

For the Using and Consuming Public of North Carolina:

Dwight W. Allen, Assistant Staff Attorney, North Carolina Utilities Commission - Public Staff, P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 8, 1977, Duke Power Company (Applicant, the Company or Duke), filed with the Commission request for authority to increase its motor bus passenger

fares and charges applicable on the transportation of passengers in the City of Durham, North Carolina, and vicinity, to become effective July 8, 1977. The fares presently in effect are as follows:

Cash	30¢
Transfer	10¢
Tickets	5/$1.50
Students (Free Transfers)	15¢
Student Tickets (Free Transfers)	10/$1.50

The fares that the Applicant seeks authority to place into effect in its new tariff filing are:

Cash fares* (One-way Ride)	$ .50
10 One-way Ride Pass*	$ 5.00
Limited Off-Peak Pass (16 One-way Rides)	$ 5.00
Transfer	$ .10
30-day Off-Peak Pass (Unlimited Rides)	$12.00
School (Free Transfers - One-way Rides)	$ .30

*Transfer Fare Not Included

NOTE: 10 One-Way Ride and Limited Off-Peak passes good ONLY for sixty (60) days from date of purchase.

The Commission, being of the opinion that the proposed increases affected the public interest, issued an Order on June 28, 1977, suspending the proposed tariff, declaring the matter to be a general rate case, instituting an investigation into the lawfulness of the tariff, and setting the matter for hearing in Durham, North Carolina.

A Protest, Request for Hearing, and Petition for Leave to Intervene was filed with the Commission on June 28, 1977, by W. I. Thornton, Jr., City Attorney, Durham, North Carolina, for and on behalf of the City of Durham. The City of Durham requested, among other things, that the Commission consider the Protest as a Complaint, that the new rates be suspended, that the City be admitted as an Intervenor, and that the matter be set for public hearing. The City was allowed to intervene by Order issued by the Commission on July 8, 1977.

Subsequently, on August 25, 1977, the Public Staff of the North Carolina Utilities Commission, by and through its Executive Director, Hugh A. Wells, gave Notice of Intervention in the proceeding. Said intervention was recognized by Order issued August 26, 1977.

The matter came on for hearing as scheduled on September 20, 1977, in the County Commissioners' Room, 6th Floor, Durham County Office Building, Durham, North Carolina.

In support of the proposed tariff increases, the Company offered testimony and exhibits from the following witnesses: Gerald A. Teele, Manager of Revenue Studies, Controller's Department; Kenneth R. Sloop, Senior Analyst, Rate

Department, and William G. Plyler, Superintendent of Transportation, Durham, North Carolina. The Public Staff presented testimony and exhibits from two witnesses: George Dennis, Staff Accountant and James L. Rose, Director of Transportation, Rates Division.

The public hearing was well attended and the following public witnesses appeared to offer testimony: Thelma Denning, Bessie Ware, Celina Morris, Gertrude Cheek, Robert Black, Oris Ellington, Howard Harris, Annie Chamberlain, Amanda Wallace, Estelle Clinton, Paul Luebke, Lola Clark and Freida Kocher.

The principal concern expressed by the public witnesses was the need for special consideration for senior citizens in the Durham area. The public witnesses also expressed concern that the proposed increases would discourage ridership and thus contribute to the nation's energy crisis, that the existing service was not sufficiently dependable, that the existing bus routes were obsolete and that the lower income citizens of Durham would have to shoulder most of the burdens resulting from proposed increases.

Based on the record in this docket, including the Application of Duke Power Company, and the evidence and exhibits presented at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant, Duke Power Company, is engaged in the transportation of passengers for compensation in the City of Durham, North Carolina, and is subject to the jurisdiction of the Commission with respect to the fixing of rates and charges for such service.

2. That Duke Power Company seeks authority from the Commission to increase its tariffs and fares as follows:

Cash fares* (One-way Ride)	$ .50
10 One-way Ride Pass*	$ 5.00
Limited Off-Peak Pass* (16 One-way Rides)	$ 5.00
Transfer	$ .10
30-day Off-Peak Pass (Unlimited Rides)	$12.00
School (Free Transfers - One-Way Rides)	$ .30

*Transfer Fare Not Included

NOTE: 10 One-way Ride and Limited Off-Peak passes good ONLY for sixty (60) days from date of purchase.

3. That for the 12 months ended December 31, 1975, Duke Power Company experienced a net operating loss of $641,840 on its transit operations in Durham, North Carolina. The Company's operating ratio for that year before income taxes was 180%.

4. That for the 12 months ended October 31, 1976, the Duke Power Company Transit Operation in Durham, North Carolina, experienced a net operating loss of $680,703. The Company's operating ratio for that year before income taxes was 180%.

5. That decreases in the number of passengers carried and increases in operating expenses are the factors principally responsible for the decline in the Company's net operating revenues over the last several years.

6. That the number of adult and student passengers carried annually by Duke Power Company's transit system in the Durham, North Carolina area has declined significantly since 1972.

7. That the number of adult passengers carried annually has declined from 2,656,884 for the 12 months ended October 31, 1972, to 1,791,146 for the 12 months ended October 31, 1976, and during the same period the number of student passengers carried annually has declined from 604,323 to 493,409.

8. That the average annual decline in adult ridership is 4.05% and the average annual decline in school passenger ridership is 8.38%.

9. That it is desirable to increase the number of passengers carried by Duke Power Company's Durham Transit System.

10. That the availability of an off-peak pass and a senior citizens fare at reduced rates may result in an increase in ridership or a decrease in continuing ridership declines.

11. That the assumption that 5.92% of the total adult passengers carried will purchase an off-peak pass is acceptable for use herein.

12. That the proportion of adult passengers using transfers is 28.3%.

13. That the resistance factor of .320 for each 1% increase in the adult passenger fare is reasonable for use in estimating the passenger loss the company can be expected to experience as a result of an increase in rates.

14. That for the 12 months ended October 31, 1977, the estimated number of adult passengers to be carried annually is 1,718,605 and the estimated number of student passengers to be carried annually is 452,061.

15. That, based upon the test year level of operations, excluding 1977 ridership declines, the Applicant's estimated net loss under existing fares for the 12 months ended October 31, 1977, is $604,738; and that such loss is

composed of estimated revenues of $894,702, and estimated expenses of $1,499,440, resulting in an estimated operating ratio of 168%.

16. That, based upon the test year level of operations, including 1977 ridership declines, the Applicant's net loss under proposed fares for the 12 months ended October 31, 1977, is $481,165, and that such loss is composed of estimated revenues of $1,019,246, and estimated expenses of $1,500,411, resulting in an estimated operating ratio of 147%.

17. That the Applicant's Durham Transit System is facing increased operating costs in almost all areas of operation.

18. That the Applicant needs additional operating revenues to partially offset projected operating losses.

19. That, based upon the test year level of operations as adjusted, including 1977 ridership declines, the Applicant would have realized, under the rates as approved herein, operating revenues of $985,913; such revenues would have been derived as follows:

Item No.	Description (a)	Amount (b)
1.	Full fare adult passengers not using transfers	$373,273
2.	Full fare adult passengers using transfers	151,548
3.	Off-peak adult passengers using monthly passes	27,468
4.	Senior citizen fares	51,558
5.	Adult passenger transfer charges	37,887
6.	School children passengers fares	113,015
7.	Contract services	38,924
8.	Special contract services	181,913
9.	Advertising	10,327
10.	Total	$985,913

NOTE: (1) Senior citizen ridership was estimated to be 10% of adult ridership.
(2) Off-peak pass ridership was estimated to be @ 20 rides per pass.

20. That, based upon the test year level of operations as adjusted, under approved rates, the Applicant would have experienced an operating ratio of 152% (Operating expenses of $1,500,151 / Operating revenues of $985,913).

21. That, while service is generally adequate, passengers using the buses of Duke Power Company are experiencing some difficulties in service.

Based on the above Findings of Fact, the Commission makes the following

CONCLUSIONS

Duke Power Company, by Application filed with this Commission, is seeking increases in its rates and charges for passenger service in Durham, North Carolina. The evidence and exhibits presented by the Company and by the Public Staff lead to the conclusion that the Company is faced with substantial and increasing operating losses. The reason for these losses is twofold: a continuing decline in the number of passengers who ride the Company's buses, and an increase in operating expenses incurred by the Company. Since 1971 the number of passengers carried by Duke Power Company has declined at a steady rate each year, except for a slight increase in 1974. At the same time, the cost of goods and services used by the Company in its operations has increased.

For the 12 months ended December 31, 1975, Duke Power Company experienced a net operating loss of $641,840 per books on its transit operations in Durham, North Carolina. The Company's operating ratio for that year before income taxes was 180%. For the 12 months ended October 31, 1976, Duke's Transit Operation in Durham, North Carolina, actually experienced a net operating loss of $680,703. The Company's operating ratio for that year before income taxes was 180%. Further, based upon the test year level of operations, excluding 1977 ridership declines, the Applicant's estimated net loss under existing fares for the 12 months ended October 31, 1977, is $604,738. Such loss is composed of estimated revenues of $894,702, and estimated expenses of $1,499,440, resulting in an estimated operating ratio of 168%.

The Company projects that the fare increases which it proposes will result in an increase of approximately $123,573 in net operating income. Of this amount, approximately $86,415 is expected to be realized from adult passenger fares. The total revenues which the Company expects to receive from adult passenger fares on an annual basis following the proposed increase is $623,706. In arriving at the passenger count which will generate these revenues, the Company used a diminution factor of .320 for each 1% increase in the average fare charged by the Company.

The Public Staff maintains that the diminution factor developed by the Company is not appropriate for determining rider resistance, contending that rider resistance will increase more rapidly as the fare gets higher, and at some point, the ridership will fall so drastically as to completely offset any increase in operating income which otherwise would have resulted from an increase in rates. The Public Staff, however, offered no evidence as to how such rider resistance could be objectively and effectively measured.

The City of Durham (a party-protestant in this docket) offered various exhibits through cross-examination of

witnesses sponsored by other parties. The principal thrust of these exhibits was to demonstrate that, under the City's theory, the revenues of the Company would maximize at a fare of 37.5¢. While we might agree with the City that revenues will maximize at some point, we cannot give much weight to the evidence offered by the City. In making its estimate, the City essentially used a single point or single observation to design its demand curve. The Commission believes a more reasonable approach would have been to take a number of observations of price and quantity and then use its statistical techniques to fit a demand curve to that data. Additionally, the exhibits offered by the City were not sponsored by a witness tendered to the Commission and accepted by the Commission as an expert in economics.

While the record in this case does not establish the point at which revenues would maximize, or the fare at which ridership loss would be complete, it is abundantly clear that an increase in fares will result in some loss in ridership. The Commission, therefore, concludes that the diminution factor developed by the Company is appropriate for use herein.

In its proposals, Duke proposed peak and off-peak fares and stated that a traffic survey in March, 1977, indicated that 59.2% of its passengers ride the bus during off-peak hours. While the off-peak plan was designed principally to benefit senior citizens, it was contemplated that riders other than senior citizens would utilize the bus service during the off-peak period.

The Public Staff contends that the record fails to support the establishment of peak and off-peak rates.

Clearly, the record does not reveal indisputable evidence that riders would take advantage of reduced off-peak rates. However, reduced prices for off-peak use does have the potential of increasing ridership and the unlimited rides concept does create some incentive for heavier patronage of the system. The Commission, therefore, concludes that off-peak rates are desirable and adopts for use herein the assumption that 5.92% of the total adult passengers carried will purchase an off-peak pass.

Further, the Commission concludes that the average annual decline in adult ridership of 4.05%, the average annual decline in school passenger ridership of 8.38%, and the proportion of adult passengers using transfers of 28.3% are appropriate for use herein.

In its Order of June 18, 1975, granting a fare increase to the Durham transit operation of Duke Power Company, the Commission expressed its concern about the protests received in that proceeding from senior citizens who presented evidence that an increase in bus fares would worsen their financial plight in this inflationary period. The same

concerns were expressed by witnesses during the hearing of September 20, 1977, concerning the instant proceeding.

The Commission, in recognition of this concern, has provided for a senior citizen fare in the Company's tariffs and fares as approved herein. The Commission, however, is not insensitive to the needs of the Company to minimize its losses. While the Commission is approving rates less than those proposed by Duke, and although such revenues are not reflected in revenues to be realized under the approved rates, the Commission concludes that, as a result of the senior citizen fare and the off-peak rates, the Company's level of ridership will be increased with attendant increases in operating revenues. The Commission further concludes that the resultant effect of such ridership increase will be that the approved rates will produce no less revenue than that requested by the Company in its Application.

However, should Duke conclude, after one year of operating experience, that the senior citizen fare and the off-peak rates have not increased ridership to a point that would provide such additional revenues, the Commission, at such time, would consider a request, if filed by the Company, to increase such fares to the full fare adult passenger level as approved herein. The Company should keep detailed information on the usage of the various fare options in order to support any request for an increase to full fare at the end of one year.

In its Order of June 18, 1975, granting a fare increase to the Durham Transit operation of Duke Power Company, the Commission admonished the City of Durham to assume its rightful responsibility in meeting the needs of senior citizens. There is no evidence that the City has given any serious attention to the problems of the senior citizens or the poor. There are numerous federal programs to aid mass urban transit operations. These federal programs must flow through a governmental unit. The Commission concludes that the City of Durham should fulfill its obligations to its citizens by working closely with the Company to explore the possibility of obtaining federal aid funds rather than criticize the Company for seeking to minimize its operating losses on the Durham Transit operation.

While the Commission concludes that the bus service offered by Duke is generally adequate, it believes every effort should be made to encourage bus ridership. The Commission is particularly concerned that the Company has not provided its customers with a composite map of all bus routes:

The Commission, therefore, concludes that the Applicant should be required to publish and distribute to its riders and the general public, a composite route map of its bus system and that a copy of same should be filed with the Chief Clerk of the Commission. We fully expect the

Applicant to keep its riders and the general public informed as to the nature of its services and the Applicant should take all reasonable efforts to increase ridership and stabilize the ridership losses reflected in this record. Further, the Commission concludes that the Applicant should closely review testimony offered in this docket by public witnesses and should aggressively seek means to remedy complaints regarding service wherever reasonably possible.

IT IS, THEREFORE, ORDERED as follows:

1. That the Order of Suspension in this docket dated June 28, 1977, be, and the same hereby is, vacated and set aside for the purpose of allowing the Local Passenger Tariff attached hereto as Attachment A to become effective.

2. That the publication authorized hereby may be made on five days' 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 Duke Power Company shall publish and distribute a composite route map of its Durham Transit System and shall file a copy of same with the Chief Clerk of the Commission within 90 days of the date of issuance of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This 27th day of December, 1977.

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

ATTACHMENT A
DOCKET NO. E-209, SUB 11
LOCAL PASSENGER TARIFF
CITY OF DURHAM

RULE NO. 1

Passengers will be transported by the Company only upon payment of the exact cash fare, upon payment of the exact transfer fee and presentation of a valid transfer, or upon presentation of a valid pass, or valid transfer, and no cash change will be given to any passenger. Passengers not having the exact fare or valid pass may request from the bus operator a receipt in lieu of cash change for amounts of change of 10¢ or more, which receipt shall be redeemable in cash within 60 days thereafter upon presentation at the office of the Company in person during normal business hours. Passengers with more than the exact fare, who elect not to receive a receipt, may ride but will not receive change.

RULE NO. 2

SCHEDULE OF ONE-WAY RATES, FARES AND CHARGES
FOR DURHAM AND VICINITY

Description - Class of Fares	Amount
Adult Fares:	
Single Adult Cash Fare*	40¢
Transfers	10¢
Pass* (10 One-Way Rides)	$4.00
30-Day Off-Peak Pass (Unlimited Rides)	$6.00
School Fares:	
Student Cash Fares	25¢
Transfers	No Charge
Senior Citizens Fares:	
Senior Citizens (65 Years and Older) Cash Fare	30¢
Transfers	No Charge
Pass (10 One-Way Rides)	$3.00

*Transfer Fare Not Included.

NOTE: 10 One-Way Ride pass good ONLY for sixty (60) days from date of purchase.

RULE NO. 3

School fares for school children attending public, private, or parochial elementary school, or high schools, in grades between kindergarten and twelfth grades, both inclusive, shall be good only for transportation of such school children between their homes and such schools between the hours of 7:30 A.M. and 4:30 P.M. on regular school days during the regular school term.

RULE NO. 4

Passengers are required to have the exact fare in cash or a pass. Passes may be purchased either at the business office, 101 East Main Street, or the Transit Center, 111 Vivian Street, Durham, N. C.

RULE NO. 5

CHARTER OF SPECIAL BUS RATES:

Minimum of three (3) hours or $1.60 per mile, whichever is greater	$ 57.00
Each additional One (1) hour or fractional hour or $1.60 per mile, whichever is greater	$ 19.00

RULE NO. 6

Off-peak passes will only be honored on trips leaving downtown during the following hours:

Monday through Friday - After 9:00 a.m. until 3:00 p.m.
Saturday and Sunday - All day
Holidays - All day

All other times, adult and student passengers (except during specified school hours) will pay the full fare of 40¢.

RULE NO. 7

Adult passengers with transfers, when entering another bus, shall hand the driver the transfer and deposit the exact ten (10) cents transfer fare in the fare box.

DOCKET NO. B-209, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Duke Power Company - Investigation of	)	RECOMMENDED
Proposed Increase in Motor Bus Passenger	)	ORDER
Fares, Charges and Tariff Adjustments in	)	GRANTING
the City of Greensboro, North Carolina, and	)	PARTIAL
Vicinity	)	INCREASE

HEARD IN: Guilford County Courthouse, Greensboro, North Carolina, on Wednesday, September 21, 1977, at 10:00 A.M.

BEFORE: Commissioners Robert Fischbach, Presiding; Tenney I. Deane, Jr., and John W. Winters

(Commissioner Tenney I. Deane, Jr., resigned from the Commission on October 17, 1977, and, therefore, did not participate in this decision.)

APPEARANCES:

For the Applicant:

George W. Ferguson, Jr., Attorney at Law, Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28211

Philip M. Van Hoy, Attorney at Law, Duke Power Company, P. O. Box 2178, Charlotte, North Carolina 28211

For the Using and Consuming Public of North Carolina:

Theodore C. Brown, Jr., Assistant Staff Attorney, Public Staff, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Dwight W. Allen, Assistant Staff Attorney, Public Staff, North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter arose upon the filing with the Commission on June 8, 1977, of an application by Duke Power Company (Applicant, the Company, or Duke), P. O. Box 2178, Charlotte, North Carolina 28211, seeking authority to increase its motor bus passenger fares, charges, and tariff adjustments applicable on the transportation of passengers in the City of Greensboro, North Carolina, and vicinity, effective July 8, 1977. The following fares were proposed:

Description	Present	Proposed
Cash*	$ .30	$ .50
Transfers	$ .10	$ .10
Tickets	5/$1.50	None
Students (Free Transfers)	$ .15	$ .30
Student Tickets (Free Transfers)	10/$1.50	None
10 One-Way Ride Pass*	None	$5.00
Limited Off-Peak Pass (16 One-Way Rides)	None	$5.00
30-Day Off-Peak Pass (Unlimited Rides)	None	$12.00

*Transfer Fare Not Included.

by the filing of tariff schedule being designated as:

Duke Power Company
Local Passenger Tariff No. 2-A, NCUC No. 16

The Commission being of the opinion that the proposed increase in bus passenger fares, charges and tariff adjustments, as herein set out, were matters affecting the public interest and that the matter constituted a general rate case under G.S. 62-137, issued an Order on June 28, 1977, suspending the proposed tariff schedule, instituted an investigation, and assigned the matter for hearing to determine whether said publication was just, reasonable and otherwise lawful.

The Applicant, Duke Power Company, was required by Commission Order to give Notice of the time, place and purpose of the hearing by publication of an appropriate notice in newspapers having general circulation in the

Greensboro, North Carolina, area, said publication to be made on three (3) different days, the latter publication being on or before Monday, September 12, 1977, and, further, that carriers post an appropriate notice of the proposed increases in their buses to remain until time of the hearing.

On August 9, 1977, the Public Staff of the North Carolina Utilities Commission, by and through its Executive Director, Hugh A. Wells, gave Notice of Intervention in the proceeding. Said Intervention was recognized by Order issued on August 10, 1977.

The matter came for hearing as scheduled on September 21, 1977, in the Guilford County Courthouse, Greensboro, North Carolina.

At the public hearing, Applicant offered into evidence Affidavit of Publication that Notice of the hearing appeared three times in the "Greensboro Daily News" and gave proof that Notice of the hearing was also posted on each of the buses in Greensboro as was ordered by the Commission.

There were 29 public witnesses who testified at the hearing as to the need for a good, dependable transit system, one which the poor, elderly and handicapped can afford; the need for better service insofar as better scheduling to enable more people to take advantage of the service; and that an increase in rates will cause an even further decrease in riders. Suggestions were made on how the bus system could improve its service as follows: By building more rain shelters; better and more polite drivers; bus routes to cover a larger area of the City; more buses; purchasing smaller buses for more efficiency; a reduction in rates for senior citizens; provide more Sunday bus service; easy access to bus schedules; and that the City ask for financial aid from the Federal Government to subsidize the system.

Kenneth R. Sloop, Senior Analyst in Duke's Rate Department, gave testimony on the revenues to be achieved through the Company's proposed rates. His computations were based on the test year ending October 31, 1976; the normal decline in ridership; the loss in ridership anticipated as a result of increased fares; the percent of ridership using transfers; the percent of ridership during off-peak hours; and an estimate of the extent to which full fare passengers would avail themselves of the Company's proposed off-peak passes. The witness elaborated on the discount aspect of the off-peak pass and that the pass is intended to assist low income and elderly persons.

Gerald A. Teele, Manager of Revenue Studies in Duke's Comptrollers Department, testified that the Applicant has incurred significant losses during recent years and that the increased revenues due to the proposed rates would only partially offset current losses. The witness testified that

the biggest increase in expenses is due to drivers' wages and salaries which have risen as a result of union contracts and new wage and hour laws.

William H. Lynn, Jr., Applicant's Manager of Transportation for the District of Greensboro, testified as to the system's operations as follows: that records are kept of complaints when a name is given and that all complaints are checked out; that there are bus schedules available and that in the future Duke intends to distribute them more widely for the convenience of riders; and that schedules are free of charge. Mr. Lynn further testified that at the present time no steps have been taken to build more weather shelters at bus stops but they do have shelters at some terminals in the uptown area; that the system has not advertised to build up riders and that they do not publish notice of schedules in the newspaper before school starts. The witness also discussed route scheduling and curtailment, and responded to questions regarding the extent to which buses operate at capacity.

The Public Staff offered the prefiled testimony of James C. Turner, Staff Accountant, which was adopted by George Dennis, Staff Accountant, since Mr. Turner was absent due to illness. Mr. Dennis testified that he believes the proposed fare increases are cost-justified and are short of the required revenues which would enable the carrier to achieve a financial break-even situation. Mr. Dennis conceded, however, that the proposed fares will create a hardship in some instances and noted that although Duke needs the increase, the fares will exceed those charged by many other intracity bus operations in North Carolina.

James L. Rose, Director of Transportation Rates Division of the Public Staff, testified as to his examination of Applicant's actual work papers used in the preparation of statements and information filed with the Commission to justify the proposed tariff. He further testified to the definite and continuing need for intracity bus passenger services and that Applicant's present operations are not financially self-sustaining. Mr. Rose recommended that Applicant modify its proposed tariff filing to encourage public use of the system. The witness further testified that he had not conducted any studies to determine how his suggestions would affect ridership or revenues.

Based upon the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That Applicant, Duke Power Company, is a public utility engaged in the transportation of passengers in the City of Greensboro, North Carolina, and is subject to the jurisdiction of the Commission with respect to the fixing of rates and charges.

2. That there is an established need for bus service in the City of Greensboro and vicinity.

3. That Duke Power Company seeks authority from the Commission to adopt increased tariffs and fares as follows:

Cash Fares* (One-Way Ride)	$ .50
10 One-Way Ride Pass*	$ 5.00
Limited Off-Peak Pass (16 One-Way Rides)	$ 5.00
Transfer	$ .10
30-Day Off-Peak Pass (Unlimited Rides)	$12.00
School (Free Transfers - One-Way Rides)	$ .30

*Transfer Fare Not Included.

4. That for the 12 months ended December 31, 1975, Duke Power Company had a net operating loss of $637,619 per books on its transit operations in Greensboro, North Carolina. The Company's operating ratio for the same year before income taxes was 229%.

5. That Duke's transit operation in Greensboro, North Carolina, for the 12 months ended October 31, 1976 (test year), had total revenues of $498,680; a net operating loss of $727,371; and an operating ratio of 246%.

6. That two principal factors responsible for the decline in the Company's net operating revenues over the last several years are the decrease in the number of passengers carried by the Company and the increase in the Company's operating expenses.

7. That the number of adult passengers and student passengers carried annually by Duke Power Company's transit system in the Greensboro, North Carolina, area has declined steadily since 1972.

8. That for the year ended October 31, 1976, the number of adult passengers carried annually had declined to 1,411,524 from 2,111,005 for the 12 months ended October 31, 1972, and the number of student passengers carried annually had declined to 34,738.

9. That the normal annual decline in adult ridership is 5.64% and the normal annual decline in school children ridership is 16.38%.

10. That the proportion of adult passengers using transfers is 28.2%.

11. That the resistance factors of 0.316 per percent increase in adult passenger fare and of 0.378 per percent increase in school children fare are acceptable estimates for application in the Greensboro, North Carolina, area.

12. That for the year ended October 31, 1977, the estimated number of adult passengers carried annually is 1,331,914 and the estimated number of student passengers carried annually is 29,048.

13. That based upon test year operating expenses and projected normal ridership declines, the Applicant's estimated total revenues under existing fares for the year ended October 31, 1977, are $471,673; the estimated net losses before income taxes are $754,378; and the estimated operating ratio is 260%.

14. That based upon test year operating expenses, projected normal ridership declines, and the resistance factor due to fare increase, under Applicant's proposed tariffs and estimate of the number of off-peak riders who will purchase the proposed off-peak pass, the estimated total revenues for the year ended October 31, 1977, are $555,520; the estimated net losses before income taxes are $670,531; and the estimated operating ratio is 221%.

15. That Duke Power Company's bus system operating in Greensboro, North Carolina, is facing increased operating costs, increases in the cost of goods and services as a result of inflation, increases in taxes, and increases in almost all other areas of operating expense.

16. That Duke Power Company's Greensboro Transit System needs additional operating revenues to partially offset operating losses.

17. That based upon test year operating expenses, projected normal ridership declines, and the resistance factor due to fare increase, under the Rate Schedule attached as Exhibit A, the Applicant's estimated total revenues for the year ended October 31, 1977, are $539,899; the estimated net losses before income taxes are $686,152; and the estimated operating ratio is 227%.

18. That under the Rate Schedule attached as Exhibit A, the Applicant would have derived approximately $68,226 additional revenues for the 12 months ended October 31, 1977.

19. That under the Rate Schedule attached as Exhibit A, the Applicant would have derived approximately $41,219 additional revenues for the 12 months ended October 31, 1977, as compared to the test year.

20. That while service is generally adequate, passengers using the buses of Duke Power Company are experiencing some difficulties in service.

21. That the following revenue recapitulation reflects, in part, the bases for the Findings and Conclusions herein:

1a.	Estimated adult passengers not using transfers to be carried during 12 months ending October 31, 1977, under the present fare.	956,314	
1b.	Number of full fare carried. (See Note 1)	860,683	
1c.	Estimated full fare adult passengers not using transfers to be carried during 12 months ending October 31, 1977, under tariffs attached as Exhibit A. (See Note 2)	770,311	
1d.	Estimated revenues.		$308,124
2a.	Estimated adult passengers using transfers to be carried during 12 months ending October 31, 1977, under present fare.	375,600	
2b.	Number of full fare carried. (See Note 1)	338,040	
2c.	Estimated full fare adult passengers using transfers to be carried during 12 months ending October 31, 1977, under tariffs attached as Exhibit A. (See Note 3)	311,335	
2d.	Estimated revenues.		$155,668
3a.	Estimated total adult passengers to be carried during 12 months ending October 31, 1977, under the present fare.	1,331,914	
3b.	Estimated number of passengers who qualify for Senior Citizens' Tariff. (See Note 1)	133,191	
3c.	Number of passengers to be carried during 12 months ending October 31, 1977, under Senior Citizens' Tariff using transfer. (See Note 4)	40,527	
3d.	Estimated revenues.	$12,158	
3e.	Number of passengers to be carried during 12 months ending October 31, 1977, under Senior Citizens' Tariff not using transfer.	95,631	
3f.	Estimated revenues.	$28,689	

3g.	Total estimated revenues under Senior Citizens' Tariff from Exhibit A.		$ 40,847
4a.	Estimated school children passengers to be carried during 12 months ending October 31, 1977, under present rates.	29,048	
4b.	Estimated school children passengers to be carried during 12 months ending October 31, 1977, under tariffs attached as Exhibit A. (See Note 5)	25,388	
4c.	Estimated revenues.		$ 5,078
	Total estimated bus passenger revenues for 12 months ending October 31, 1977, under tariffs attached as Exhibit A (lines 1d, 2d, 3g, 4c).		$509,717
	Revenues from Contract Service and Advertising.		$ 30,182
	TOTAL ESTIMATED REVENUES UNDER TARIFFS ATTACHED AS EXHIBIT A		$539,899

NOTE 1. Estimate 10% of adult ridership will ride under Senior Citizens' Tariff.

NOTE 2. Resistance factor of 0.316; fare increase of 33.3%; ridership loss of 10.5%.

NOTE 3. Resistance factor of 0.316; fare increase of 25%; ridership loss of 7.9%.

NOTE 4. Resistance factor of 0.316; fare reduction of 25%; ridership increase of 7.9%.

NOTE 5. Resistance factor of 0.378; fare increase of 33.3%; ridership loss of 12.6%.

Based on the above Findings of Fact, the Commission makes the following

CONCLUSIONS

Duke Power Company, by application filed with this Commission, is seeking increases in its tariffs and fares for bus passenger service in Greensboro, North Carolina. The evidence and exhibits presented by the Company and the Public Staff reveal clearly that the Company experienced significant losses for the 12 months ending December 31, 1975, and that these losses are increasing in subsequent years. For the 12 months ending October 31, 1976, the

Company experienced a net operating loss of $727,371 on its transit operations in Greensboro. The Company's operating ratio for the same year was 246%. For the 12 months ending October 31, 1977, the estimated net operating losses are $754,378 and the estimated operating ratio is 260%.

The Commission has found and concludes that the estimates used by the Company for normal decline in ridership, proportion of ridership using transfers, and the resistance factors due to fare increases are acceptable because they are based on actual experience in the Greensboro, North Carolina, area. However, the Commission does not conclude that a fare discount for passenger service at off-peak times is justifiable because sufficient testimony was not offered to show that buses operate at or near full capacity during peak times. Further, the Commission does not accept the Company's estimate of the number of riders who would purchase an off-peak pass since no testimony was offered to support either the 50% estimate or the computation of pass revenues based on 44 rides per month.

The Commission concludes that the tariffs shown in attached Exhibit A will provide approximately the same operating ratio as sought by the Company and would have produced $68,226 additional revenue for the 12 months ended October 31, 1977. Further, the Commission concludes that the tariffs shown in Exhibit A are more appropriate than those proposed by the Company or the modified version of the Company's tariffs proposed by the Public Staff.

The Commission concludes that the tariffs attached as Exhibit A are just and reasonable and will produce sufficient revenues in light of the evidence regarding bus passenger ridership, and, accordingly, approves them. Significant efforts should be made by this Commission and the Applicant to insure that ridership losses are stabilized by every reasonable means possible. The rate design approved herein is specifically directed to that end. Ridership decline due to fare resistance is expected to be approximately 10% and 13% for adult full fare and school passengers, respectively, in contrast to 21% and 38% for adult full fare and school passengers, respectively, under Applicant's proposed tariffs.

With respect to senior citizens, the Commission has concluded that persons 65 years of age and older, as a class, regardless of income, should be provided additional incentive to use the bus system and the tariffs approved herein are designed to do so. The Commission has concluded that this class of customers has the potential of contributing some stability to the system. This is in contrast to the commuter class, where experience nationwide to achieve increased ridership, on a paying basis, generally has not been successful and it is apparent that this class of customer is making its decision to commute via automobiles on other than financial considerations. The Commission acknowledges the Applicant's attempt to provide

assistance to the elderly through its proposed off-peak pass, but concludes that the tariffs reflected in Exhibit A will better accomplish this and accordingly is approving these tariffs at this time. Logic suggests that the elderly generally will opt to ride during the off-peak hours for their own convenience, whenever possible. However, if at some future time the Applicant can demonstrate that ridership is at or near capacity during peak hours, the Commission would consider a motion to reopen this docket for consideration as to whether the Senior Citizens' tariff should be applicable only during off-peak hours. It is observed that no evidence was offered by the Public Staff to support the revenue impact of its proposals and there is no evidence to support the off-peak "capacity factor" and this lack of evidence has been considered by the Commission in reaching its determination.

The Commission further concludes that the Applicant should be required to publish and distribute to its riders and the general public a composite route map of its bus system and that a copy thereof should be filed with the Commission. We fully expect the Applicant to keep its riders and the general public informed as to the nature of its services and the Applicant should take all reasonable efforts to increase ridership and stabilize the ridership losses reflected in this record. Further, the Commission concludes that the Applicant should closely review testimony offered in this docket by public witnesses and should aggressively seek means to remedy complaints regarding service wherever reasonably possible.

IT IS, THEREFORE, ORDERED as follows:

1. That Applicant petition to cancel its proposed Tariff Schedule designated as Local Passenger Tariff No. 2-A, NCUC No. 14, which publication may be accomplished on five (5) days notice.

2. That the Order of Suspension in this docket dated June 28, 1977, be, and the same hereby is, vacated and set aside for the purpose of allowing the Local Passenger Tariff attached hereto as Exhibit A to become effective.

3. That the publication authorized hereby may be made on five days' 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.

4. That Duke Power Company shall publish and distribute a composite route map of its bus system and shall file a copy thereof with the Commission within 90 days of the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 20th day of December, 1977.

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

EXHIBIT A
LOCAL PASSENGER TARIFF
CITY OF GREENSBORO

RULE NO. 1

Passengers will be transported by the Company only upon payment of the exact cash fare, upon payment of the exact transfer fare and presentation of a valid transfer, and no cash change will be given to any passenger. Passes may be purchased either at the business office, 217 North Elm Street, or the Transit Center, 320 East Friendly Avenue. Passengers not having the exact fare may request from the bus operator a receipt in lieu of cash change for amounts of change of 10¢ or more, which receipt shall be redeemable in cash within 60 days thereafter upon presentation at the office of the Company in person during normal business hours. Passengers with more than the exact fare, who elect not to receive a receipt, may ride but will not receive change.

RULE NO. 2

SCHEDULE OF ONE-WAY RATES, FARES AND CHARGES
FOR GREENSBORO AND VICINITY

Description - Class of Fares	Amount
Adult Fares:	
Single Adult Cash Fare*	40¢
Transfers	10¢
Pass* (10 One-Way Rides)	$4.00
School Fares:	
Student Cash Fares	20¢
Transfers	No Charge
Senior Citizens Fares:	
Senior Citizens (65 Years and Older) Cash Fare	30¢
Transfers	No Charge
Pass (10 One-Way Rides)	$3.00

*Transfer Fare Not Included.

RULE NO. 3

School fares for school children attending public, private, or parochial elementary school, or high schools, in

grades between kindergarten and twelfth grades, both inclusive, shall be good only for transportation of such school children between their homes and such schools between the hours of 7:30 A.M. and 4:30 P.M. on regular school days during the regular school term.

RULE NO. 4

CHARTER OR SPECIAL BUS RATES

Minimum of three (3) hours of $1.60 per mile, whichever is greater	$57.00
Each additional one (1) hour or fractional hour of $1.60 per mile, whichever is greater	$19.00

RULE NO. 5

Adult passengers with transfers, when entering another bus, shall hand the driver the transfer and deposit the exact ten (10) cents transfer fare in the fare box.

DOCKET NO. T-1839

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of John D. Brantley, Route 1, Box 1016, Sanford, North Carolina 27330 - Application for Contract Carrier Authority - Group 21. Disc Harrows, Rotary Cutters, Sprayers of All Types, and Component Parts - Statewide	) RECOMMENDED ORDER) GRANTING CONTRACT) CARRIER AUTHORITY)))

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on December 21, 1976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Applicant:

Orton J. Cameron, Attorney at Law, P. O. Box 1028, Sanford, North Carolina 27330

No Protestants

PARTIN, HEARING EXAMINER: This proceeding arose upon the filing of John D. Brantley, Route 1, Box 1016, Sanford, North Carolina, on November 10, 1976, for contract carrier authority as follows:

"Group 21. Disc harrows, rotary cutters, sprayers of all types, and component parts - Statewide."

Notice of the Application setting forth a description of the authority sought and the time and place of hearing was published in the Commission's Calendar of Hearings issued November 17, 1976. No protests or interventions were filed in this proceeding.

The Application came on for hearing as scheduled on December 21, 1976. The Applicant was present and represented by counsel. Applicant offered the testimony of John D. Brantley, Sanford, North Carolina, and Bruce E. Watson, President of Watson Manufacturing Corp., Sanford, North Carolina. The evidence tended to show that John D. Brantley owns a 1971 International tractor; he has assets in excess of $100,000; he currently hauls fertilizer; he has entered into a contract with Watson Manufacturing Corp., Sanford, North Carolina, to transport farm equipment such as tobacco sprayers and disc harrows from Sanford to points and places in North Carolina; he will use specially designed trailers owned by Watson Manufacturing Corp. Watson Manufacturing Corp. has found that common carriers are unable to meet delivery dates to its customers; that common carriers require the equipment to be disassembled and boxed before shipment, thereby causing inconvenience to his farm dealer customers; that Brantley will be able to deliver the farm equipment assembled.

FINDINGS OF FACT

(1) The Applicant John D. Brantley, Sanford, North Carolina, seeks authority to operate as a contract carrier of Group 21 commodities, disc harrows, rotary cutters, sprayers of all types, and component parts, Statewide, pursuant to a contract entered into with Watson Manufacturing Corp., Sanford, North Carolina. The proposed operations conform to the definition of a contract carrier.

(2) The Applicant is fit, willing and able to provide Watson Manufacturing Corp. with the service it requires.

(3) Watson Manufacturing Corp. has a need for the specific type of service offered by the Applicant which is not otherwise available by existing means of transportation.

CONCLUSIONS

Upon consideration of the evidence in this proceeding and the applicable law with respect to contract carrier authority, the Hearing Examiner concludes that the contract between the Applicant and Watson Manufacturing Corp., should be approved and that the Applicant should be granted the intrastate contract carrier authority to serve Watson Manufacturing Corp. as set forth in Exhibit A attached to this Order.

IT IS, THEREFORE, ORDERED:

(1) That John D. Brantley, Sanford, North Carolina, be, and the same hereby is, granted contract carrier permit authority in accordance with Exhibit A attached hereto and made a part of this Order.

(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 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 effective 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 3rd day of January, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

DOCKET NO. T-1839

John D. Brantley
Route 1, Box 106
Sanford, North Carolina 27330

CONTRACT CARRIER OPERATING AUTHORITY

EXHIBIT A

Transportation of Group 24, disc harrows, rotary cutters, sprayers of all types, and component parts, between all points and places within the State of North Carolina, under individual bilateral written contract with Watson Manufacturing Corporation, Sanford, North Carolina.

DOCKET NO. T-1732, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Norman Duncan, t/a D & N Motors, 100 Ray Street, Tabor City, North Carolina 28463 - Application for Common Carrier Certificate - Extension	) RECOMMENDED ORDER) GRANTING) CERTIFICATE)

HEARD IN: Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 31, 1977 at 9:30 A.M.

BEFORE: D. D. Coordes, Hearing Examiner

APPEARANCES:

For the Applicant:

Mr. O. Richard Wright, Jr., McGougan and Wright, Attorneys at Law, McGougan Building, Tabor City, North Carolina
For: Norman Duncan, t/a D & N Motors

For the Protestants: None

COORDES, HEARING EXAMINER: By application filed with the Commission on February 3, 1977, Mr. O. Richard Wright, Jr., McGougan and Wright, Attorneys at Law, Tabor City, North Carolina, for and on behalf of Norman Duncan, t/a D & N Motors, seeks authority, as a common carrier, to engage in the transportation of:

"Group 21, Mobile Homes, from point of origin in Columbus and Brunswick Counties to a destination anywhere in North Carolina, or from point of origin anywhere in North Carolina, to a destination only in Columbus or Brunswick Counties."

Notice of the application, together with a description of the authority sought, along with the time and place of hearing, was published in the Commission's Calendar of Hearings, published February 23, 1977.

No protests to the granting of the instant application were received by the Commission prior to the hearing and no one appeared at the hearing in opposition thereto.

Upon call of this matter for hearing at the above captioned time and place, Applicant was present and represented by Counsel.

In support of his application, Applicant testified that he is the holder of Common Carrier Certificate No. C-1051, issued by this Commission, authorizing him to transport mobile homes between points and places in Columbus and

Brunswick Counties; that he has operated under said authority for two (2) years without any problems and with no accidents and that he has received numerous requests to move mobile homes outside of his authorized territory, which he has had to turn down.

Mr. Ted Watts, Magistrate, Columbus County, testifying in behalf of Applicant, stated that he owns mobile homes and a small mobile home park; that he has had difficulty getting someone to move his mobile homes; that on occasion he has had to move them himself; that he has received numerous request for someone to move mobile homes; and that until Mr. Duncan received his authority, there was no one locally that could provide such service.

Also testifying in behalf of Applicant was Mr. Jesse Barker, Chief of Columbus County Police, Whiteville, North Carolina. Chief Barker testified that he receives inquiries for people to move mobile homes into and out of Columbus and Brunswick Counties and that there is no locally domiciled carrier to provide this service, which results in the mobile homes being moved illegally.

Upon consideration of the application, the evidence adduced and the record in this matter as a whole, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That the Applicant, Norman Duncan, t/a D & N Motors, is the holder of Common Carrier Certificate No. C-1051, issued by the Commission and is currently providing service as authorized thereby.

(2) That public convenience and necessity require the proposed service in addition to existing authorized transportation service.

(3) That Applicant is fit, willing and able to properly perform the service proposed.

(4) That Applicant is qualified financially and otherwise to acquire the authority sought and provide adequate and continuous service thereunder.

CONCLUSIONS

Based upon the evidence presented, the record as a whole and the foregoing Findings of Fact, the Hearing Examiner is of the opinion that the proposed service is in the public interest; will not unlawfully affect the service to the public by other public utilities; that Applicant is fit, willing and able to perform the service proposed and that the Application should be approved.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That Common Carrier Certificate No. C-1051, held by Norman Duncan, t/a D & N Motors, 100 Ray Street, Tabor City, North Carolina, be, and the same is hereby, amended by the addition thereto of the authority as set forth in Exhibit B attached hereto and made a part hereof.

(2) That Norman Duncan, t/a D & N Motors, file with the Commission evidence of the required insurance, lists 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 that he has not already done so, and institute operations under the authority herein acquired within thirty (30) days from the date this order becomes final.

(3) 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.

(4) That unless Applicant complies with the requirements set forth in Decretal Paragraph (2) above and begins operations, as authorized, within a period of thirty (30) days after this Order becomes final, unless time is extended by the Commission upon written request, the operating rights granted herein will cease and determine.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of April, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Joan H. Pearson, Deputy Clerk

DOCKET NO. T-1732 SUB 2

D & N Motors
Norman Duncan, t/a
100 Ray Street
Tabor City, North Carolina

IRREGULAR ROUTE COMMON CARRIER

EXHIBIT B

Transportation of Group 21, Mobile Homes, from points and places in Columbus and Brunswick Counties to points and places in North Carolina and from points and places in North Carolina to points and places in Columbus and Brunswick Counties.

DOCKET NO. T-1873

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Sucorn, Incorporated, of Florida, Route 70 East, Marion, North Carolina 28752 - Application for Contract Carrier Authority to Transport Group 21, Liquid Sweeteners, in Bulk, Between Marion, North Carolina, and All Places in North Carolina	) RECOMMENDED ORDER DENYING APPLICATION

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on July 20, 1977

BEFORE: Hearing Examiner Antcinette R. Wike

APPEARANCES:

For the Applicant:

Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, North Carolina 27601

For the Protestant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, P. O. Box 2246, Raleigh, North Carolina 27602
For: Fleet Transport Company, Incorporated

WIKE, HEARING EXAMINER: By application filed on June 1, 1977, Sucorn, Incorporated, of Florida (hereinafter referred to as Sucorn or Applicant) seeks contract carrier authority as follows:

> "Group 21, Transportation of all and any liquid sweeteners, in bulk, for the account of A. E. Staley Manufacturing Company, Post Office Box 151, Decatur, Illinois 62525, between Marion, North Carolina, and all places and points in North Carolina."

Notice of the Application and date of hearing, along with a description of the authority sought, was published in the Commission's Calendar of Hearings issued June 3, 1977. On July 5, 1977, a Protest and Motion for Intervention was filed on behalf of Fleet Transport Company, Incorporated (hereinafter Fleet). By Order issued July 12, 1977, the Commission allowed said Intervention.

The matter came on for hearing as scheduled and the Applicant offered the testimony and exhibits of four witnesses.

Levis W. Minford, IV, Applicant's President, testified and sponsored three exhibits: Applicant's balance sheet,

equipment list, and transportation contract with A. E. Staley Manufacturing Company (Staley), the supporting shipper. This testimony tends to show the following: Applicant is a Florida corporation, duly authorized to do business in North Carolina, and is a distributor of bulk liquid sweeteners with plants at Plant City, Florida, and Marion, North Carolina; it has been in business in Florida since 1961 and at Marion since October 1976; Applicant uses its own transportation in Florida; Applicant established its plant in Marion for the market potential due to good railroad connections and proximity to a number of adjoining states; prior to locating in Marion, Applicant considered Asheville as a site and talked with a representative of Fleet regarding rates from Asheville; the rates quoted by Fleet from Asheville were not competitive with the rates from Lexington; Applicant has entered into a 20-year lease for the Marion property; at Marion, Applicant receives bulk liquid sweeteners by rail from Decatur, Illinois, and sugar from Florida; the plant has 72,000 gallons of storage including two 7,500-gallon blending tanks; other facilities include a boiler, warehouse space, rail siding, rail unloading and truck unloading; Applicant is a distributor for A. E. Staley but buys and resells products from others for its own account; 75% of the products handled at Marion belongs to A. E. Staley and the remainder belongs to Applicant; the services provided for Staley include transfer from rail to truck, storage, blending, if required, and distribution to customers; Staley uses 45,000 gallons of the available storage at Marion; Staley has been using the facility at Marion since November 1976, and Applicant has provided motor transportation for Staley since that time; the rates applied to transportation for Staley have been those contained in a point to point schedule which is part of the contract between the companies; a representative of the Commission suggested that Applicant apply for authority, expressing the opinion that it should be a contract operation; earlier, Applicant had met with a transportation consultant who expressed the opinion that all transportation contemplated could be conducted as private carriage; during the first month of operation for the account of Staley, Applicant transported 1.5 million pounds of liquid sweeteners; since then, the volume has been 1.5 to 1.8 million pounds per month; transportation for Staley has been to a variety of points in North Carolina, including Wilmington in the east and Washington in the northeast; approximately 1/4 to 1/3 of Applicant's present monthly volume of truck transportation (2.2 million pounds) is for its own account; Applicant has performed specialized transportation service for Staley by being familiar with the needs of Staley's customers, including the times they prefer delivery, the hookups needed, and whom to call in an emergency; Applicant keeps a file on each customer and instructs its drivers as to the couplings and fittings required; at the time of the hearing, Applicant had the capacity to blend for Staley but was not doing so; other than for its private transportation, Applicant will dedicate

its equipment for Staley's use; and Applicant is willing to tailor this transportation to the special needs of Staley.

On cross-examination, Mr. Binford stated that Sucorn or its predecessor operated a similar facility in Lexington, North Carolina, from 1963 to 1968 during which period Maybelle Transport Company was used as the company's carrier; that in 1973 Applicant converted to private carriage in Florida because of poor service by common carriers and rates in certain areas; that Staley and Sucorn are marketing the same product, but more customers prefer to buy from Staley since it is a national corporation; that the transportation consultant who had advised Applicant as to its North Carolina transportation was not a licensed North Carolina attorney; that Applicant has continued to perform transportation in North Carolina for Staley since talking with the representative of the Commission; that Sucorn arrived at its schedule of rates with Staley using a mileage chart; that, prior to the hearing, he was not aware of NCUC Rule R2-16(b) requiring that rates of contract carriers not be lower than those of common carriers providing similar services; that he would be willing to charge rates approved by the Commission; that Applicant has and will continue to use the same trucks for its private transportation and for its transportation for the account of Staley; that the trucks bear the name Sucorn; that, in his opinion, NCUC Rule R2-33 prohibits only commingling of private and regulated transportation in the same vehicles; that, if his interpretation is incorrect, Applicant could turn its accounts over to Staley and become a "total contract carrier"; that Applicant has with Staley a blending agreement, a transportation agreement, and possibly a distribution agreement; that Sucorn has a schedule of charges with Staley to cover blending and transfer from storage; that all of Applicant's tractors have power takeoffs; that Applicant is performing transportation in minimal volumes from Marion to points outside North Carolina for the account of Staley; that no application for authority has been made to the Interstate Commerce Commission (ICC); that points served to date include Petersburg, Bristol, and Roanoke, Virginia, and Knoxville, Tennessee; and that when his company first talked with Staley, it was aware that Staley's only distribution point in North Carolina was Lexington and that Fleet was providing transportation out of that point.

Robert L. Lighthall, Assistant to the Director of Corporate Transportation for Staley, testified and sponsored as an exhibit a "Fact Sheet" describing Staley's products, organization, and history. The testimony tends to show the following: Staley entered a contract with Applicant because Applicant offers a complete package, namely, storage, transfer from rail to truck, blending, and delivery to customers; Staley has an operation at Marion and also operates out of Lexington; through May 1977, Staley shipped 8.5 million pounds of liquid sweetener from Marion; a total of 12.7 million pounds was projected for the fiscal year,

ending in September, and the projection for fiscal 1978 was 19 to 20 million pounds; Staley is going to continue to use the Lexington terminal; Staley has maintained a distribution point at Lexington since 1962 or 1963; services available at Lexington include storage of inbound tank cars, unloading, steaming, perhaps some storage, and truck transportation; and the decision to establish a distribution point at Marion was made because the total sales package, including storage and blending, was tailored and specialized to Staley's needs. Mr. Lighthall has gotten no complaint about services at Marion; he has no intention of criticizing Fleet; his purpose is to support Applicant so that Staley can get in the really tough market with Anheuser-Busch, CPC International, etc., and to do so, the proudct must be delivered to the customer in a timely manner; and in his experience, contract carriers provide better service because of the dedication of equipment.

On cross-examination, Mr. Lighthall stated that to his knowledge Staley has no present intention to phase out operations at Lexington; that he has heard no complaints with the services rendered by Fleet at Lexington and, in fact, investigated company records prior to attending the hearing but found no service deficiencies; that storage is not regulated by any jurisdiction; and that storage is a part of the total distribution package.

The testimony of Donald L. Dillingham, Applicant's Marion Plant Manager, tended to show the following: the facility went into operation in October or November 1976; product is brought into Marion by rail, stored in tanks, filtered and steamed, and then distributed by truck; as a regular practice, none is unloaded directly into a transportation unit; rail cars are heated in transit, some as high as 120 degrees; the temperature is brought up slowly, over 12 to 24 hours, to avoid damaging the product; the main plant has separate pumps to handle different products; there are two 6,000-gallon blending tanks at Marion, but to date no blending has been done for Staley other than of samples; approximately 75% of 80% of Applicant's 72,000-gallon storage is dedicated to Staley; on indirect recommendation from the ICC, Applicant went to a consultant who indicated that the handling of Staley products would not violate any laws; an investigation from the State recommended Sucorn file for a contract carrier permit; Applicant is in a position to take less than full loads and store them; Applicant can heat loads to various temperatures, as Staley's customers require; the temperature will hold for 24 hours during the truck movement; Washington, New Bern, Raleigh, Durham, and Knoxville are points to which Applicant has provided transportation for Staley; most of the interstate movements have been in emergency situations; Applicant has never hauled any combination loads on the same vehicle at the same time; other than Applicant's own transportation, vehicles are dedicated to Staley; Applicant keeps records on customers regarding the fillings needed, the size lines needed, the volume of the customers' tanks

and the distance the produce has to be pumped; individual customers' tanks vary from 3,500 to 6,000 gallons and the type of installation varies; Applicant has made emergency deliveries to a two-hour period and will deliver at all hours depending on the need; Applicant will not serve anyone other than itself but Staley; and Applicant will haul Staley's first.

On cross-examination, Mr. Dillingham stated that Applicant is serving some Staley customers that were formerly served from Lexington; that, to his knowledge, Staley still serves Pine State Dairy in Raleigh and Coble Dairy in Lexington, out of Lexington; that Applicant is presently receiving a percentage of Staley traffic that was formerly received by Fleet; that approval of this application would permit Applicant to be a little more responsive to Staley's needs to provide a customized service; profit is not the total motive for this application; the total motive is to provide service that Fleet has not been able to provide or has not agreed to provide; that the transportation revenues Applicant receives will be only 15% to 20% of the total compensation to Staley by Applicant; that Staley is charged for services other than transportation on the basis of put-through poundage; that the most obvious charge is involved in the heating process and fuel oil for which Applicant's costs are probably higher than Fleet's; that a great deal of Applicant's costs, particularly in winter months, comes from heating of liquid sweetener, steaming, cost of electrical pumps, etc., and personnel; that the cost of handling is higher on average than any freight involved; and that Staley pays all freight charges, and all product is shipped prepaid.

The testimony of James C. Meyers, Staley's Territory Manager for North Carolina and Virginia, tended to show the following: his company's annual volume of sales of corn derivative sweeteners in North Carolina is approximately 25 million pounds; the dollar volume is about 15¢ to 20¢ per hundred pounds; four years ago Staley undertook a nationwide marketing evaluation and as a result decided to improve its distribution system to service the entire market rather than just the 15% to 20% of the accounts that do 80% to 90% of the business; it began to look for opportunities to provide blending service so that it could serve the smaller accounts; all of Staley's competitors make good products, and one of the principal features of service is having all of the products available to sell and distribute which customers may demand; in an effort to establish blending facilities in North Carolina, Mr. Meyers talked with officials of Fleet's subsidiary, Bulk Storage, and was advised that blending could be provided at Lexington; since the blending facilities were owned by Anheuser-Busch, a competitor, it elected not to use them; Staley also decided against establishing its own blending facility at Lexington; the Applicant's facility at Marion provides a total distribution system similar to one in Indianapolis, Indiana, which Staley purchased and put into operation six months

prior to starting business at Marion; Staley uses a contract carrier at Indianapolis and would prefer to do so at Marion because there is an opportunity for more control of a contract carrier; Staley supports Sucorn's application because it gives Staley the opportunity to promote sales in North Carolina by using sales tools that were not previously available, not just trucking service, but basic service.

Mr. Meyers stated that he has no desire to get a rate advantage; that he had never visited the facilities of Fleet and Bulk Storage at Lexington but that Fleet had given very good transportation service; and that he had never known Fleet to be unable to service a customer because of improper coupling devices or insufficient knowledge of the customer's operation. He also stated that he had been involved in his company's negotiations with Sucorn when Staley decided to encourage Sucorn to put in the facilities it did, including blending facilities; that Sucorn had offerred to provide motor transportation for Staley out of Marion; and that he had not been aware that Fleet had authority from Marion to points in North Carolina. He admitted that it makes no difference to his company who provides motor transportation, as long as it is done competently, which is constantly being evaluated. Mr. Meyers further stated that Fleet is doing a good job of motor transportation at Lexington and Sucorn is doing a good job in Marion. He expressed a preference for Sucorn's motor transportation services at Marion because Sucorn is there, stating that the only way that Staley would use Fleet at Marion would be if Fleet stationed trucks there. However, he said Staley would still prefer to use Applicant. The reason for the preference, in addition to the desire for control, according to Mr. Meyers, is that he feels it only fair that Applicant get some of the benefits in return for some of the services that it has provided for Staley. He also stated that Sucorn has more storage tanks available for Staley's account than does Bulk Storage in Lexington and that the facilities are in excellent condition.

In Mr. Meyers' opinion, Staley pays about as much in transportation costs as it does for storage and other processing and a little more for nontransportation services at Marion than at Lexington. Mr. Meyers agreed that the volume of intrastate freight tendered to Fleet by Staley had decreased by 47.5% since operations at Marion were initiated. He added that Sucorn could not provide the extra services for Staley at Marion without some kind of base to operate on and, that if Staley were faced with giving all of its direct business to Fleet and all of its blended business to Sucorn, Sucorn would not have a business. Mr. Meyers stated that the Applicant has received some business at Marion that was diverted from Fleet and some that was new and that Raleigh and Lexington are the only points still served from Lexington. He agreed that the total number of points served from Lexington had been reduced from 11 to two, a tonnage reduction of about 50%, and that the

interstate revenue tendered to Fleet at Lexington has decreased by 90.8% since the Marion operation was started.

On redirect examination, Mr. Meyers stated that if Staley had to put material into Marion just to make a blend it could not have done so and that Staley has no intention of ceasing operation with Fleet.

On questioning by the Hearing Examiner, Mr. Meyers admitted that the two remaining accounts served from Lexington, Pine State Dairy and Coble Dairy, could be switched to Marion if Staley should elect to do so. He also stated that he had not considered using Fleet as a carrier at Marion because Applicant has its own trucks and is perfectly capable of providing transportation.

On further cross-examination, Mr. Meyers admitted that the primary consideration for using Applicant for transportation from Marion has been factors other than transportation.

The Protestant presented one witness, Russell E. Stone, Director of Commerce and Traffic for Fleet Transport Company. Mr. Stone sponsored || exhibits. The following is a summary of his testimony:

Fleet is authorized to transport both liquid sweeteners and liquid commodities, in bulk, in tank vehicles, between all points in North Carolina. It maintains permanent terminals at Charlotte and Lexington and, periodically, upon demand, stations equipment at a shipper's facility. It is presently doing so at a shipper's facility in Roxboro, and, during each fertilizer season, it stations equipment with shippers at various points. Fleet would station equipment at Marion upon request by Staley. Mr. Stone expressed the opinion that Fleet could provide all of the transportation described as needed by Staley's representatives. Two or three years ago, when Sucorn was considering establishing a distribution point at Asheville, Mr. Stone talked with Mr. Minford about providing intrastate service. He also offered to file an application for authority to provide interstate service. He never heard anything further from Mr. Minford after that discussion.

Fleet's equipment inventory, a list of its tractors domiciled in North Carolina and a list of its trailers domiciled in North Carolina, were presented as Protestant's Exhibits #3 - #5. Mr. Stone stated that all trailers are owned by Fleet and the tractors are owned by owner/operators who lease them to Fleet and receive a percentage of the freight revenue earned. Approximately 30 owner/operators, who earn $15,000 - $20,000 per year, are employed in North Carolina. Fleet also employs approximately 20 nondrivers in North Carolina. The terminals at Lexington and Charlotte have complete maintenance and cleaning facilities with waste disposal systems and are open 24 hours a day, seven days a week. Fleet holds itself out to provide service 365 days a year. Both Lexington and Charlotte are edible terminals;

the equipment stationed at Lexington is suitable for corn syrup and sugar; and most of the Charlotte traffic is in dry commodities. According to Mr. Stone, Fleet is known as a food-grade carrier. (Maybelle, whose Lexington operation was acquired and merged into Fleet, was a pioneer in the field.) Fleet owns 49 edible stainless steel and two aluminum-barrelled edible plank trailers, the majority of which have steam coils. Mr. Stone stated that Fleet is willing and able to procure additional equipment as needed. Fleet customarily meets the problem of serving shippers with different size hoses and couplings by having its dispatcher be familiar with the customer's requirements.

Mr. Stone explained the relationship between Fleet and Bulk Storage, Inc. Maybelle Transport also operated a bulk transfer facility at Lexington which Fleet purchased and now operates as Bulk Storage, Inc. Bulk Storage is a separate entity. It brings rail cars onto a siding for any shipper who wants to use the facility. It applies a through-put charge for product going from rail to truck or rail to storage. Various shippers maintain product inventory with Bulk Storage, and a teletype service is available for their convenience. Fleet is the primary carrier out of Bulk Storage's facilities, but the orders of any shippers are honored. According to Mr. Stone, the only difference between Bulk Storage's operation at Lexington and Applicant's operation at Marion is that Applicant provides transportation.

Mr. Stone testified that Fleet serves Staley out of Atlanta in the transportation of liquid commodities in both interstate and intrastate commerce. He stated that he discerns no difference between the transportation service required there and that required at Lexington; that Fleet has received no complaints from Staley regarding its service at Lexington; and that Fleet is willing to serve Staley from Marion. Mr. Stone presented Protestant's Exhibits #7 - #10 which purported to show the impact of the diversion of revenue from Staley at Lexington upon its operation. At the time of the hearing, Fleet's revenue on intrastate traffic from Staley had been reduced by 50%, which on an annual basis would result in an increase in Fleet's intrastate operating ratio from 96.2 to 97.5, all other things remaining equal. According to Mr. Stone, an operating ratio above 95 is not favorable. He stated that Staley's revenue is important to Fleet and that if Fleet loses it the Company may be required to move some of its drivers from North Carolina, resulting in a loss of revenue to the State. Mr. Stone sponsored Protestant's Exhibit #11 showing wages paid to employees in North Carolina by Fleet and its subsidiary, Bulk Storage, Inc., as of December 31, 1976.

On cross-examination, Mr. Stone stated that he did not know how many independent contractors Fleet had stationed at Charlotte or Lexington as of May 1, 1977. Mr. Stone further stated that Fleet has interstate authority to transport liquid sweeteners from Marion to points in Alabama, Florida,

Georgia, Kentucky, Maryland, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia and that Fleet's rates out of Marion are exactly the same as those out of Lexington. He testified that Carroll McDade, who is in charge of Fleet's Lexington terminal, is also in charge of Bulk Storage at Lexington; Bulk Storage is wholly-owned by Fleet; Fleet and Bulk Storage serve Anheuser-Busch and CPC at Lexington.

Based upon the foregoing and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That Applicant is a Florida corporation duly authorized by the Secretary of State to do business in North Carolina;

2. That, in October of 1976, Applicant established a liquid sweetener distribution plant at Marion, North Carolina, with facilities for rail storage, transfer from rail to storage, filtering and steaming, blending, bulk storage, and transportation;

3. That, by this application, Applicant proposes to transport liquid sweeteners in bulk for the account of A. E. Staley Manufacturing Company between Marion and all points in North Carolina under a written contract with A. E. Staley which was filed with the Commission at the time of the hearing;

4. That two representatives of A. E. Staley have testified that their company is a distributor of bulk liquid sweeteners with a substantial volume of sales in North Carolina and adjoining states;

5. That the Protestant, Fleet Transport Company, Inc., is authorized under Certificate/Permit No. CP-39 to transport liquid sweeteners and liquid commodities, in bulk, in tank trucks, between all points in North Carolina and maintains permanent terminals at Charlotte and Lexington.

6. That A. E. Staley's sole distribution point in North Carolina was at Lexington until November of 1976, when it transferred all but two North Carolina accounts and all interstate accounts served from North Carolina to Applicant's facility at Marion;

7. That the establishment of the Applicant's distribution plant in Marion was in contemplation of providing integrated storage, blending, and transportation services for the account of A. E. Staley Manufacturing Company as well as for Sucorn's own accounts;

8. That A. E. Staley's representatives have expressed a need for the nontransportation distribution services offered

by Applicant at Marion and a preference for the transportation services offered by Applicant at Marion;

9. That A. E. Staley's representatives have stated that without the transportation of liquid sweeteners for its account Succrn would not be able to continue its other services at Marion;

10. That A. E. Staley's motor transportation needs at Marion, North Carolina, are similar in kind to its motor transportation needs at Lexington, North Carolina;

11. That A. E. Staley's representatives have testified that the transportation services provided by the Protestant at Lexington and at points in interstate commerce have been satisfactory;

12. That both the Applicant and the Protestant have suitable equipment and the necessary expertise to transport liquid sweeteners in bulk;

13. That the Protestant has presented uncontradicted evidence tending to show that traffic from A. E. Staley which it previously handled has been diverted to Applicant resulting in a decrease in the Protestant's operating revenues; and

14. That the Protestant has adduced evidence tending to show that present and potential diversion of revenue from A. E. Staley will have an adverse effect upon its operating ratio.

15. That Applicant has, since November of 1976, performed intrastate transportation of liquid sweeteners in bulk for the account of A. E. Staley without authority from this Commission;

WHEREUPON, the Hearing Examiner reaches the following

CONCLUSIONS

1. While the Applicant appears to be fit, willing, and able to properly perform the proposed service, this application must be considered in the light of all of the provisions of G.S. 62-262(i) and North Carolina Utilities Commission Rule R2-15(b). The essential element of proof is that "one or more shippers have a need for a specific type of service not otherwise available by existing means of transportation." The evidence in this docket is not sufficient to sustain this burden. The testimony by the representatives of the supporting shipper does not establish the need for any specific transportation service that the Protestant is unwilling or unable to provide as a common carrier. The supporting shipper's preference for Applicant's transportation service in consideration of the provision of nontransportation services by Applicant will not support the grant of a permit to Applicant.

2. G.S. 62-262(i) also requires that this Commission, in ruling upon applications for contract carrier permits, consider whether the proposed operation will unreasonably impair the efficient public service of carriers operating under certificates. The record in this docket indicates that substantial revenue has been and will be diverted from the Protestant if this application is approved. Absent a show of a specific need by the shipper for the proposed service, it must be held that such diversion does and will unreasonably impair the Protestant's service to the public.

3. It is regrettable that the Applicant established facilities in North Carolina without first seeking to obtain the authority necessary to perform the transportation services which apparently are essential to its continued operation. The Commission has no desire to render a decision which will be detrimental to any business enterprise. The Commission is bound by law, however, to promote harmony among all carriers and to prevent undue preferences and destructive competitive practices between all carriers. G.S. 62-259. To this end, the Commission has no choice but to deny the instant application.

4. Applicant's past and present transportation service for the account of A. E. Staley has been without authority and, therefore, must cease. Applicant is admonished that any future transportation of liquid sweeteners, in bulk, for the account of A. E. Staley or any other shipper between points in North Carolina, except as provided by G.S. 62-260 and G.S. 62-265, will be deemed unlawful and that this Commission will take appropriate action in response thereto.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application of Sucorn, Incorporated, of Florida for contract carrier authority as more fully described above, be, and the same is hereby, denied.

2. That the Applicant shall cease and desist from any transportation service for which authority has been sought by this application and is herein denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of December, 1977.

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

DOCKET NO. R-4, SUB 101

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Norfolk Southern Railway Company - Application to Retire and Dismantle the Depot Building at Knightdale, North Carolina	) ORDER GRANTING APPLICATION

BY THE COMMISSION: By Application filed with the Commission on September 12, 1977, by Messrs. W. T. Joyner, Jr., Joyner and Howison, Attorneys at Law, Raleigh, North Carolina, and James L. Howe III, General Attorney, Southern Railway Company, Washington, D. C., for and on behalf of Norfolk Southern Railway Company, (Applicant), said carrier seeks authority to retire and dismantle its depot building at Knightdale, North Carolina.

In support of the proposed action, Applicant states that it has not used the depot building for several years and the dismantling and removal of said building would not have any effect on service provided to the public; that Applicant desires to retire and remove the depot building on account of the unreasonable expense of keeping the building in proper condition.

Applicant further states that a Notice to the Public was posted on August 19, 1977, and remained posted for ten (10) days in compliance with Rule R1-14 of the Commission's Rules of Practice and Procedure.

In the absence of the filing of protests, the Commission caused an investigation to be made by its staff, which was conducted by Inspector Worth B. Hailey. Inspector Hailey filed his report with the Commission September 19, 1977, which reflects that Mr. Jimmy Johnson, Town Manager, Knightdale, advised he knew of no opposition to Applicant's proposal; that the railroad has leased the building to Mr. George Pleasants, who operates an antique business in said building; that Mr. Plesants has agreed to purchase the building from the railroad and to move the building from its present site if the Application is granted; and, that he found no one opposed to the action as sought herein by Applicant.

Based upon the verified Application and the record in this matter as a whole, the Commission makes the following

FINDINGS OF FACT

(1) That Applicant, Norfolk Southern Railway Company, is a common carrier by rail in the State of North Carolina and is subject to the jurisdiction of this Commission.

(2) That Applicant has a depot building located at Knightdale, Wake County, North Carolina.

(3) That Applicant posted Notice of its proposed action as required by Rule R1-14 of the Commission's Rules and Regulations.

(4) That no protest was filed to the proposed action of Applicant.

CONCLUSIONS

The Commission concludes that the Applicant has established that public convenience and necessity no longer requires the depot building at Knightdale, North Carolina, and that the Application as hereinbefore described should be granted.

IT IS, THEREFORE, ORDERED:

(1) That the Application for and on behalf of Norfolk Southern Railway Company for authority to retire and dismantle its depot building at Knightdale, North Carolina, be, and the same is hereby, granted.

(2) That Applicant notify the Commission when it has retired and dismantled or removed the involved depot building at Knightdale, North Carolina.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of October, 1977.

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

DOCKET NO. R-66, SUB 82

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rail Common Carriers - Suspension and Investi-	) RECOMMENDED
gation of Proposed Cancellation and Revisions	) ORDER
in Rates on Brick or Tile Raw Materials	) GRANTING
Between Points in North Carolina, Scheduled to	) RATE
Become Effective July 9, 28 and 30, 1976	) INCREASE

HEARD IN: The Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 5, 1976

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Respondent Railroads

Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27602
For: Southern Railway Systems

James L. Howe III, Attorney at Law, Southern Railway Systems, P. O. Box 1808, Washington, D. C. 20013
For: Southern Railway Systems and North Carolina Railroads

Phyllis A. Joyner, Attorney at Law, Seaboard Coast Line Railroad, 3600 West Broad Street, Richmond, Virginia 23230
For: Southern Territory Rail Carriers (Generally) and Seaboard Coast Line Railroad (Specifically)

For the Protestant-Intervenor

Robert O. Klepfer, Jr., Stern, Rendleman, Isaacson & Klepfer, Attorneys at Law, P. O. Box 3112, Greensboro, North Carolina 27402

For the Commission Staff

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: This proceeding arose upon the filing with the Commission by the railroads operating in North Carolina, through their Agent, the Southern Freight Tariff Bureau, of tariff schedules proposing to cancel the present mileage scale intrastate rates on brick or tile raw materials (crude earth) and to establish increased rates on these materials to become effective July 9, 28 and 30, 1976, and the filing is designated as follows:

Southern Freight Tariff Bureau (Southern Freight Asscciation, Agent) Freight Tariff No. 763-F, Supplement 47, 48 and 50, Items 34991, 35000 and 35001, therein, and Freight Tariff No. 763-G, Supplement 3, Item 6185-A, therein.

On June 29, 1976, Boren Clay Products, Greensboro, North Carolina, filed protest and petition for suspension of the proposed tariffs. By Order of July 7, 1976, the Commission issued its Order suspending the proposed tariff schedules and setting the matter for investigation and hearing. The matter came on for hearing cn November 5, 1976. The respondent railroads, the protestant, Boren Clay Products, and the Commission Staff were present and were represented by counsel. The respondents presented the testimony of Rodney D. Briggs, Manager, Commerce, Marketing and Planning Division, Southern Railway System; George M. Gallamore, Jr., Assistant General Freight Agent, in the Commerce Section of the Freight Traffic Department of The Family Lines System; Francis M. Spuhler, Senior Cost Analyst with the Southern Freight Association. The Commission Staff presented the testimony and exhibits of J. Philip Lee, Rate Specialist and Special Investigator in the Traffic-Transportation Division. The protestant Boren Clay Products presented the testimony of William S. Jones, President of the company and A. M. Downey, Jr., a transportation consultant with the firm of Downey and Company.

Based on the entire record in this proceeding and the testimony and exhibits presented at the hearing, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The respondent rail 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 tariff schedules.

2. The respondent railroads in this proceeding have satisfied the statutory burden of proof to show that the proposed tariff schedules are just and reasonable, and that there is a need by the respondents for the increases proposed in the tariff schedules.

CONCLUSIONS

The Hearing Examiner finds and concludes that the tariff schedules proposed by the respondents on brick and tile materials (crude earth) are just and reasonable and that there is a need by the respondents for the increases proposed in such tariff schedules. In so deciding, the Hearing Examiner notes, among other things, the following: the present single line scale fails to cover fully allocated costs in all mileage blocks from 25 to 600 miles and the variable costs exceed the rates in a number of instances. Where variable costs do not exceed the rate the contribution is minimal. The proposed single line rates will not cover fully allocated costs. The ratios of proposed single line rates to variable costs range from 97% to ||9%. The comparison of joint line rates and costs as shown in respondents' Exhibit 2 produce comparable results. Furthermore, the respondents costed protestant Boren's actual movement of crude earth from Boren's siding to Roseboro, North Carolina. The variable cost was $3.|8 per ton and fully allocated costs were $4.|8 per ton. These costs can be compared with the present rate of $2.83 and the proposed rate of $3.36.

Challenge was made to the costing procedures used by the respondents. The respondents' witnesses, however, testified that the Southern Region unit railroad costs <u>were</u> appropriate for use in costing the movement of crude earth in North Carolina and more specifically, between Boren's siding and Roseboro, North Carolina. In the opinion of the Hearing Examiner, the evidence on cost was sufficient and appropriate for this proceeding. Consequently, the Motion by the Staff Attorney to dismiss the proceeding on the grounds of inappropriate costing procedures is denied.

The Commission Staff Attorney also made a Motion to dismiss the case on the grounds that the respondents have not carried the burden of proof to show evidence of the fair value of the respondents' properties. This Motion is likewise denied. The standards set forth in G.S. 62-|33 are

inapplicable in a proceeding such as this one which only involves a small segment of the respondents' rate structure.

IT IS, THEREFORE, ORDERED:

1. That the Order of Suspension in this docket dated July 29, 1976, be and the same hereby is, vacated and set aside for the purpose of allowing the tariff schedules 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 publication hereby authorized having been made, the investigation in this matter be discontinued and this proceeding be, and the same is hereby, discontinued.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of April, 1977.

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

DOCKET NO. P-55, SUB 754

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Telerent Leasing Corporation, Comntel, Inc., and Carolina Interconnect Telephone Association Complainants	)	ORDER AFFIRMING RECOMMENDED ORDER DISMISSING COMPLAINT
v.	)	
Southern Bell Telephone and Telegraph Company, Respondent	)	

BY THE COMMISSION: Upon review of the Recommended Order entered on June 30, 1977 dismissing the complaint in this matter, the findings and conclusions therein made upon the record, and the Exceptions filed and oral argument, the Commission is of the opinion that the Recommended Order should be affirmed, and all Exceptions overruled. The Commission, therefore, adopts all findings and conclusions in the Recommended Order and incorporates the same herein by reference.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Recommended Order Dismissing Complaint issued on June 30, 1977 be, and the same hereby is, affirmed and adopted.

2. That decretal paragraph 3 be, and the same hereby is, amended to allow parties to this case to maintain proprietary information for the purposes of appeal, if any, and such proprietary information shall be returned thirty-five days following this order or the conclusion of any appeal taken.

ISSUED BY ORDER OF THE COMMISSION.
This 26th day of October, 1977.

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

Chairman Koger and Commissioner Hipp not participating.

DOCKET NO. P-89, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Interference Between Radio Common	) RECOMMENDED ORDER
Carrier Channel 5 at Winston-Salem	) REQUIRING SERVICES
Assigned to Services Unlimited, Inc.,	) UNLIMITED, INC., TO
and Channel 5 at Burlington Assigned	) CEASE OPERATION ON
to T. D. Miller III	) VHF CHANNEL 5

HEARD IN: Council Chambers, Burlington Municipal Building, Burlington, North Carolina, on February 9, 1977

BEFORE: Commissioner J. Ward Purrington

APPEARANCES:

For the Respondents:

T. D. Miller III, Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, North Carolina

Services Unlimited, Inc., James W. Armentrout, Hatfield and Allman, 2300 Wachovia Building, Winston-Salem, North Carolina 27101

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, P. O. Box 991, Ruffin Building, Raleigh, North Carolina 27602

PURRINGTON, COMMISSIONER: This matter first came to the attention of the Commission through an informal complaint to the Commission Staff from a subscriber of T. D. Miller III, a radio common carrier (RCC) operating in the Burlington area. The complaint was that radio transmissions from RCC Channel 5 in Winston-Salem interfered with communications on Channel 5 in Burlington. Subsequent to the receipt of the

informal complaint, the Commission Staff investigated the interference and sought to determine a solution to the problem. The Staff's informal efforts to resolve the problem were unsuccessful.

On November 30, |976, the Commission received a petition signed by Burlington RCC users of approximately 66 mobile units complaining about interference from RCC Channel 5 in Winston-Salem.

By Order dated December 8, |976, the Commission set the matter for investigation and hearing on February 9, |977, in the Council Chamber, Burlington Municipal Building, Burlington, North Carolina. The order setting hearing made T. D. Miller III, (Burlington) and Services Unlimited, Inc. (Winston-Salem) parties to the proceeding and required that they be represented at the hearing; required that the Commission Staff submit testimony concerning its investigation of this matter; required the hearing to be open to receive testimony from mobile users or others effected by this proceeding; and required T. D. Miller III, and Services Unlimited, Inc. to mail each of their two-way mobile radio subscribers a copy of the notice of hearing as described on Appendix A of the Commission's Order.

No petitions for intervention were filed in this docket.

The public hearing was held on February 9, |977, as scheduled. Testimony was presented by || mobile subscribers of T. D. Miller III and the Burlington mobile operator concerning the interference which they were experiencing from Channel 5 in Winston-Salem. In addition, there were 2| other customers of T. D. Miller III attending the hearing whose names were copied into the record as adopting the testimony of witnesses who had previously testified. Perebee L. Patterson, President of Answerphone Communication, an RCC operating in Raleigh, Durham, High Point and Goldsboro presented testimony relating his solution to the interference problem in question. T. D. Miller III, owner and operator of the RCC service in Burlington, offered testimony concerning the interference problem and his efforts to reduce the problem. John C. Broughton, Vice President of Services Unlimited, Inc., Winston-Salem, presented testimony concerning the use of Channel 5 in Winston-Salem and his Company's efforts to reduce the interference problem. The Commission Staff offered the testimony of Gene A. Clemmons, Chief Engineer, Telephone Service Section, regarding his investigation of the interference problem and his recommended approaches to reduce or eliminate the interference.

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

FINDINGS OF FACT

1. T. D. Miller III, is a duly franchised public utility providing radio common carrier service to subscribers in the Burlington area.

2. Services Unlimited, Inc. is a duly franchised public utility providing radio common carrier service to subscribers in the Winston-Salem area.

3. T. D. Miller III and Services Unlimited, Inc. are both licensed by the Federal Communications Commission to operate on RCC Channel 5 (VHF) in Burlington and Winston-Salem, respectively.

4. T. D. Miller III was certificated as a radio common carrier in 1966 and has been providing service on Channel 5 since it commenced operations in Burlington.

5. T. D. Miller III presently serves approximately 93 mobile units on Channel 5.

6. Services Unlimited, Inc. was certificated as a Radio Common Carrier in 1966 and operates on VHF Channels 5, 9 and 13. It began providing service on Channel 5 in 1973 following issuance of a license by the Federal Communications Commission.

7. Services Unlimited currently serves a total of approximately 182 mobile units on Channels 5, 9 and 13. Approximately 14 units are assigned to Channel 5 as the home channel but approximately 42 Winston mobile units are capable of using Channel 5.

8. A severe interference problem is caused by the common use of Channel 5 in Winston-Salem and Burlington.

9. There are no other VHF channels which can be assigned in the Burlington or Winston-Salem area.

10. The Federal Communications Commission has stated that it has no legal grounds to take any unilateral action in attempting to resolve the interference problem.

11. The interference problem is primarily affecting Burlington service although Winston-Salem can experience some interference from Burlington.

12. The primary cause of the interference is reception by the Burlington base station receiver of Winston-Salem mobile transmissions on Channel 5 and the base station repeating these transmissions. However, there is also interference resulting from Winston-Salem base station transmissions being received directly by Burlington mobile units.

13. There is an overlapping and common community of interest between Winston-Salem and Burlington mobile units

in the area between Winston-Salem and Burlington including High Point and Greensboro.

|4. The quality of service and the reliability provided by the Burlington radio system has been significantly degraded as a result of the interference from Winston-Salem mobiles and base station operating on VHF Channel 5.

|5. The only course of action which will effectively eliminate the interference problem is to require Services Unlimited, Inc., to cease operation on Channel 5 in the Winston-Salem area.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. |-7

The evidence for findings of Fact Nos. |-7 comes from the testimony and exhibits of T. D. Miller III, John R. Broughton and the official files of this Commission.

The Commission concludes that T. D. Miller III and Services Unlimited, Inc., are public utilities operating within the jurisdiction of this Commission pursuant to Chapter 62 of the General Statutes of North Carolina and, that under the provisions of said statute, the Commission is vested with the authority to regulate public utilities and their rates, services and operations.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 8

The evidence as to the nature and magnitude of the interference problem is found in the testimony of the Burlington subscribers, the testimony of T. D. Miller III, the testimony of John R. Broughton and the testimony of Commission Staff Witness Clemmons. Based on this evidence and testimony, the Commission concludes that a severe interference problem is caused by the common use of Channel 5 in Winston-Salem and Burlington.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 9

The testimony of T. D. Miller III, Services Unlimited, and the Commission Staff all support the finding that there are no VHF channels presently available for assignment in the Burlington or Winston-Salem area. The Commission recognizes that there are only seven (7) VHF channels which can be used by radio common carriers throughout the United States. The full utilization of this limited frequency spectrum should be realized wherever possible. It is further recognized that some interference must be expected if maximum efficient use is to be made of the seven (7) available channels. However, the Commission concludes that the magnitude of the interference which exists between Winston-Salem and Burlington is completely unacceptable and has resulted in excessive deterioration in the quality of service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The testimony and exhibits of Staff Witness Clemmons provide evidence that the matter of interference between Channel 5 in Winston-Salem and Burlington has been brought to the attention of the Federal Communications Commission (FCC) and the FCC has stated that it has no legal grounds on which to take any unilateral action in attempting to resolve the problem. The Commission concludes that the FCC is without authority to require action necessary to reduce or eliminate the interference problem and that the only hope for resolution of the problem lies with this Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The testimony of Burlington subscribers, T. D. Miller III, John R. Broughton, and Staff Witness Clemmons all support a finding that the interference problem is primarily affecting Burlington service. However, Staff Witness Clemmons' exhibit #2 which includes the engineering report of Daryal A. Myse, also indicates that Winston-Salem will experience interference from Burlington. The Commission concludes from this testimony and evidence that the operation of Burlington and Winston-Salem on Channel 5 has unreasonably degraded the Burlington service and also will impact on Winston-Salem service. The Commission further concludes that this interference will likely increase as time passes and additional mobile units are added at both Winston-Salem and Burlington.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The testimony of the subscribers, respondents' witnesses and Commission Staff witness all support the finding that the primary causes of the interference is that the Burlington base station receiver is picking up undesired transmissions from Winston-Salem mobiles as well as desired transmissions from Burlington mobiles. The output of the receiver, which includes both Winston-Salem and Burlington conversations, is heard by Burlington mobile units the Burlington mobile operator and landline telephone subscribers during a mobile to landline call. The presence of conversations from Winston-Salem interferes with and confuses the conversations of Burlington subscribers. Under certain conditions, the transmissions from Winston-Salem mobile units will override the Burlington mobile signal at the Burlington base station and block-out a Burlington mobile from being able to communicate. The testimony also shows that a certain locations interference is being received by Burlington mobiles directly from the Winston-Salem base station. This is mentioned in the testimony of subscribers as well as the testimony of T. D. Miller III. The subscriber testimony shows that when Burlington mobiles are in an area west of Burlington, particularly in the Greensboro-High Point area, the interference is significantly greater than when they are in the Burlington area or east of Burlington. We conclude from this testimony

that the interference is greater as mobiles travel west of Burlington because they not only receive conversations from Winston mobile users which are retransmitted by the Burlington base station but they also receive transmissions directly from the Winston-Salem base station. When Burlington mobiles are in the Burlington area and eastward, they cannot receive Winston-Salem base stations transmissions and do not have as much interference.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The testimony and evidence in this case clearly indicates that there is an overlapping community of interest within which both Winston-Salem and Burlington mobiles desire to communicate. The Commission concludes that the interference problem which we are faced within this proceeding is significantly greater than normal because of this wide area of common community of interest. The testimony of Burlington subscribers shows that they frequently travel into the areas west of Greensboro and into the High Point area and attempt to communicate with the Burlington base station. Testimony also indicates that the Burlington subscribers frequently hear transmissions from Winston-Salem who are transmitting and receiving in the same general area. The Commission concludes that the existence of this common community of interest greatly complicates the interference problem.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The testimony of Burlington subscribers and T. D. Miller III clearly supports the finding that the quality and reliability of the Burlington radio common carrier system has significantly degraded as the interference from Winston-Salem has increased. The subscriber witnesses testified that as the frequency of communications from Winston increased the usefulness and value of their service has decreased. The Commission concludes that the net result of Winston-Salem operating on Channel 5 is to add the communications of 42 Winston-Salem mobile units to the already existing communications of 93 Burlington mobile units on the single radio Channel 5 at Burlington. Although this increased loading is unintentional, the interference is no less tolerable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The preceding findings of fact and conclusions clearly show that an unacceptable interference problem exists between Channel 5 in Winston-Salem and Channel 5 in Burlington. The record shows that efforts have been made by T. D. Miller III, Services Unlimited, Inc., the Federal Communications Commission, and the Commission Staff to reduce or eliminate the interference. The Burlington subscribers have tried to live with the interference problem but the point has been passed where the interference will be accepted or tolerated by these subscribers. There is also

evidence that some interference is occurring on the Winston-Salem system as a result of Burlington transmissions on Channel 5. The record contains a number of suggestions and recommendations from various witnesses as to certain further actions which might be taken to mitigate the interference problem. These suggestions include: change channel frequency in Winston-Salem or Burlington, reduce or alter the Burlington radio coverage area, reduce or alter the Winston-Salem radio coverage area, provide tone coded squelch on the Burlington system, eliminate the use of automatic repeat mode at the Burlington base station, equip the Burlington mobile units with full duplex operation and require Services Unlimited, Inc. to cease operations on Channel 5. A close reading of the testimony and evidence in this record shows that the proponents of the aforementioned suggestions recognize that each of these proposals have negative features associated with them. The record shows that there are not any other VHF channels available for assignment in the Winston-Salem and Burlington area. A reduction in Burlington coverage sufficient to essentially eliminate the interference problem would at the same time result in a substantial reduction in the useful service area which the Burlington mobiles have heretofore been receiving. Also, compressing the Burlington base station coverage area would not preclude continued interference as a result of Winston-Salem mobiles roaming close enough to Burlington to be received or preclude the possibility of Burlington mobiles receiving base station transmissions directly from Winston-Salem. The reduction or alteration of the Winston-Salem base station coverage area would not eliminate the interference resulting from Winston-Salem mobiles being received by the Burlington base. In addition to those disadvantages, there are also economic ramifications to reducing or alternating the coverage of either system. The use of tone coded squelch on the Burlington system would reduce the affect of the interference which is resulting from the receipt of Winston-Salem mobile transmissions by the Burlington base. However, the direct receipt of Winston-Salem base transmissions by Burlington mobile units would not be reduced by tone coded squelch. The use of tone coded squelch at Burlington would not eliminate the interference which Winston-Salem experiences from Burlington. Furthermore, as was testified to by T. D. Miller III, the use of tone coded squelch will not eliminate the source of the interference but will only prevent mobiles from hearing certain types of interference. The use of tone coded squelch would not prevent the Burlington base station receiver from being locked-out or captured by Winston-Salem mobile transmissions under certain conditions nor would it prevent Burlington mobiles from being locked-out or captured by Winston-Salem base station transmissions under certain conditions. Tone coded squelch would also prevent transient mobiles from using Channel 5 in Burlington unless an additional limited range antenna and receiver are provided. The suggestion that Burlington mobiles be equipped with full duplex capability has the disadvantages of substantial cost to equip all Burlington units, some Burlington mobiles can

not be equipped for full duplex operation, and full duplex operation will not overcome the problem of capture by Winston mobiles or Winston base station. The push-to-talk method of operation must be used as is now done even if a unit is equipped with full duplex. The duplex operation is only used on a mobile to landline or landline to mobile call. Consequently, full duplex will serve no purpose on a mobile to mobile call and the interference problem would continue to occur on those calls just as it does now. The suggestion was also made that the Burlington base station should eliminate the automatic repeat mode. This would only prevent retransmission of Winston mobile signals when the Burlington system is idle and there are no calls to or from Burlington mobile units. During mobile-to-mobile communications, the interference problem would occur just as it now does even though the base station is not in an automatic repeat mode when it is in the idle condition. Also, the Burlington mobile operator would continue to be exposed to and confused by the transmissions received from Winston just as she testified is now happening. Furthermore, the elimination of the automatic repeat mode would not prevent Winston-Salem mobile transmissions from being heard on a Burlington mobile to landline call nor would it prevent the Winston-Salem base station from being heard directly by the Burlington mobiles.

The magnitude and complexity of this problem leads the Commission to conclude from all of the testimony and evidence in this case that the only feasible course of action which will effectively eliminate the interference problem between Winston-Salem and Burlington is to require Services Unlimited, Inc., to cease operating on Channel 5 in the Winston-Salem area. The other aforementioned approaches would have some impact, more or less, on the interference problem existing between Winston-Salem and Burlington. However, the Commission concludes that none of these alternate approaches offer a solution that would result in reasonably satisfactory service in the Burlington area and that the alternates introduce new problems. We recognize that discontinuance of service on Channel 5 would impose some hardships on Services Unlimited in that the channel loading on Channels 9 and 13 would be increased as a result of shifting the 14 home mobiles on Channel 5. However, it should be noted that the increased channel loading at Winston-Salem would still be comparable to the existing loading on Burlington Channel 5. There is the alternative available to Services Unlimited of initiating operation in the UHF frequency band. Through the use of UHF frequencies, the Company can meet new service growth requirements and could also reduce the loading on VHF Channels 9 and 13 by transferring some existing VHF mobile subscribers to UHF operations. We note that Services Unlimited would eventually have to establish UHF channels to meet normal growth requirements even if Channel 5 service were continued. The Commission's files show that Services Unlimited did apply to the FCC for two (2) UHF channels in 1974 but subsequently terminated the FCC construction permit

in 1975. We also recognize that the investment of Services Unlimited in the base station equipment of Channel 5 would no longer be usable if operation is terminated. We conclude that the base station equipment retirement loss experienced by Services Unlimited, Inc., as a result of cessation of operation on Channel 5 should be equally shared by T. D. Miller III.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Services Unlimited, Inc., shall immediately initiate action directed toward cessation of operations on Channel 5 in Winston-Salem.

2. That no additional mobile units be assigned to Winston-Salem Channel 5 following receipt of this order by Services Unlimited, Inc.

3. That Services Unlimited, Inc., provide a report within 30 days of issuance of this order detailing the steps it is taking to terminate operation on Channel 5 and shall file reports with this Commission each 30 days thereafter until operation on Channel 5 is terminated.

4. That Services Unlimited file a schedule with this Commission detailing the net retirement loss on its base station equipment resulting from discontinuance of operations on Channel 5.

5. That upon Commission receipt and approval of the schedule of retirement loss as stated in Ordering paragrah 4, T. D. Miller III, shall equally share the retirement loss of Services Unlimited.

ISSUED BY ORDER OF THE COMMISSION.
This the 21st day of March, 1977.

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

DOCKET NO. P-16, SUB 130

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of The Concord Telephone Company for Authority to Adjust its Rates and Charges in its Service Area Within North Carolina	) ORDER APPROVING INCREASES IN RATES AND CHARGES

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on January 18 and 19, 1977

BEFORE: Commissioners J. Ward Purrington, Presiding; and Ben E. Roney and W. Lester Teal, Jr.

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602

Eugene T. Bost, Attorney at Law, Post Office Box 830, Concord, North Carolina 28025

For the Commission Staff:

Wilson B. Partin, Jr., Assistant Commission Attorney, and Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

No Protestants or Intervenors

BY THE COMMISSION: On August 9, 1976, The Concord Telephone Company (Concord, the Applicant, or the Company) filed an application with the Commission for authority to adjust and increase its rates and charges for local telephone service in North Carolina, to become effective on service rendered on and after September 30, 1976. The application was based on a test year consisting of the 12 months ending December 31, 1975, and sought an increase of approximately $1,300,000 in local service revenues related to the test year period, which amounts to an increase averaging 19.5% for local service.

On September 27, 1976, the Commission issued its Order suspending the application and setting the matter for investigation and hearing. The hearing on the Company's application was scheduled for Tuesday, January 18, 1977. The Order provided for a test period consisting of the 12 months ending December 31, 1975. The Order further required the Applicant to give notice of the proposed increases to its customers and to the public. The Commission, also, on September 27, 1976, issued its Supplemental Order No. 1 requiring the Applicant to furnish certain data.

The Company's application came on for hearing as scheduled on January 18, 1977, in the Commission Hearing Room in Raleigh. The Applicant and the Commission Staff were present and represented by counsel. There were no interventions in this docket. The Applicant presented the testimony and exhibits of the following witnesses:

1. George H. Richmond, Jr., Executive Vice President and General Plant Manager, who testified on the Company's plant

and plant maintenance and the Company's quality of service to its customers.

2. Roy W. Long, Plant Accountant and Toll Separations Supervisor for the Company, who testified on Concord's intrastate operating results, expenses, and investments.

3. Phil W. Widenhouse, Executive Vice President, Treasurer, and Assistant Secretary of the Company, who testified in support of the Company's fair rate of return and gave an explanation of the Company's proposed rates and charges.

The Commission Staff presented the testimony of:

1. Millard N. Carpenter III, Rate Analyst, who testified on his evaluation of the Company's proposals for changes in its rates and regulations and his recommendations for additional proposals.

2. Hugh L. Gerringer, Telephone Engineer, who testified on the apportionment of the Company's operations between its interstate and intrastate jurisdictions and the Company's intrastate toll revenues for the test period.

3. Benjamin R. Turner, Jr., Telephone Engineer, who testified on the Staff's investigation of the Company's quality of service.

4. Linda M. Chappell, Staff Accountant, who testified on the Company's test-period original cost net investment, revenues, expenses, and returns on original net investment and common equity.

5. Thomas M. Kiltie, an Economist in the Operations Analysis Section, who testified on the cost of capital and the fair rate of return for Concord.

6. Vern W. Chase, Chief Engineer of the Telephone Rate Section, who testified on directory assistance charges.

Based on the verified application and exhibits and the testimony and exhibits presented at the hearing, the Commission makes the following

FINDINGS OF FACT

1. Concord Telephone Company, a North Carolina corporation, is a duly franchised public utility providing telephone service to subscribers in North Carolina and is lawfully before this Commission for a determination as to the justness and reasonableness of its rates and charges pursuant to Chapter 62 of the General Statutes of North Carolina.

2. The total increase in rates and charges sought by Concord in its application would have produced approximately

$1,300,000 in additional annual gross revenues based on a test period ended December 31, 1975.

3. Concord's present rates were established by Order of the Commission on April 23, 1975, in Docket No. P-16, Sub 124.

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 Concord to its customers is adequate.

6. The original cost of Concord's intrastate telephone plant in service used and useful in the provision of telephone service is $35,326,175. The accumulated depreciation associated with this telephone plant in service is $9,861,902. Concord's original cost of intrastate net telephone plant in service is $25,464,273.

7. The reasonable allowance for working capital is $882,451.

8. The only evidence of fair value in this proceeding is the original cost of the Company's intrastate plant used and useful in providing telephone service in North Carolina. The Commission acquiesces therein and adopts the original cost of the Company's intrastate plant as the fair value. The fair value of the Company's property used and useful in providing telephone service is $26,346,724, which includes $25,464,273 in net original cost plant and $882,451 in working capital.

9. The approximate gross revenues net of uncollectibles for Concord for the test period are $9,648,116 and under Company proposed rates would have been $10,944,173.

10. The level of Concord's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $7,772,909 which includes the amount of $1,774,779 for actual investment currently consumed through reasonable actual depreciation.

11. The capital structure which is proper for use in this proceeding is as follows:

Item (a)	Percent (b)
Long-term debt	49.89%
Preferred stock	7.15%
Common equity	37.61%
Cost-free capital	5.35%
Total	100.00%

12. The Company's proper embedded cost of long-term debt is 7.30%. The proper cost of preferred stock is 4.97%. The fair rate of return which should be applied to the fair value of property (or rate base) is 9.25%. This return on Concord's rate base will allow the Company the opportunity to earn a return of 13.97% on its common equity. These returns on rate base and common equity are just and reasonable.

13. Concord should be allowed an increase in additional annual gross revenues not exceeding $1,252,538 in order for it to have an opportunity through efficient management to earn the 9.25% 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.

14. 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.

15. The schedule of rates, charges, and regulations included in Appendices A, B, and C of this Order is found to be just and reasonable.

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

Company witness Richmond and Staff witness Turner testified as to the quality of service provided by Concord Telephone Company.

Mr. Richmond testified concerning Concord's management policies as they relate to the level of service the Company provides. He testified concerning the Company's growth in telephones, the service regrade program, and various service improvements over the years. He also testified that the Company's held orders for regrade of 0.2% were well below the Commission's objective of 1% and that the Company's trouble report rate had consistently been below the Commission's objective level of six troubles per 100 stations.

Mr. Turner's testimony contained the results of the Commission Staff's investigation of the quality of telephone service provided by Concord. He testified that the Staff's evaluation was based on field tests consisting of completion

tests, transmission and noise measurements, operator answer time tests, public pay station tests and an analysis of trouble reports, service orders, and subscriber held orders for new and regraded service. The Staff's investigation shows that, in general, the Company was meeting the Commission's previously established minimum levels of adequate service.

Mr. Turner also testified that the Company has excess line finders and first selectors equal to an investment of $88,000.* Mr. Turner explained how the excess had developed and recommended that the Company take action to insure that switch quantities for new additions and existing shelves be based on actual traffic requirements and that excesses which now exist be progressively reduced as growth permits.

*Corrected by Errata Order dated 4-5-77.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Concord Telephone Company is adequate; however, the Commission is of the opinion that the Company should make efficient use of its telephone plant and that excesses should be kept to a minimum. Therefore, the Company should take action to reduce the excess switch quantities cited in the Staff's testimony.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Long and Staff witness Chappell presented different amounts for telephone plant in service and its associated accumulated depreciation as follows:

Item	Company Witness Long	Staff Witness Chappell
Original cost of telephone plant in service	$35,3||,982	$35,326,|75
Less: Accumulated depreciation	9,726,543	9,86|,902
Net original cost of telephone plant in service	$25,585,439	$25,464,273

Both witnesses agreed that Concord's total amount of telephone plant in service at the end of the test year was $39,492,678; however, the witnesses disagreed as to the appropriate amount of telephone plant in service applicable to intrastate operations. As can be seen in the chart above, the amount determined by Staff witness Chappell is $|4,|93 greater than the amount determined by Company witness Long. The different amounts of intrastate telephone plant in service found by the two witnesses result exclusively from the use of different intrastate allocation factors. Company witness Long determined the amount of

intrastate telephone plant in service by allocating total telephone plant in service to intrastate operations by utilizing a composite intrastate allocation factor of 89.414%, while Staff witness Chappell allocated total telephone plant in service to intrastate operations by applying a separate intrastate allocation factor to each individual telephone plant account. The allocation factors which Ms. Chappell used were developed by Staff witness Gerringer.

The Commission concludes that the method of determining intrastate telephone plant in service used by Staff witness Chappell is more reasonable than the method used by Company witness Long because the use of separate allocation factors for each individual telephone plant account results in a more accurate determination of intrastate telephone plant in service than the method used by Company witness Long of applying a composite factor, based on average plant during the test year, to total telephone plant in service at the end of the test year.

The Commission concludes that the original cost of intrastate telephone plant in service is $35,326,175.

The witnesses also disagreed on the proper amount of accumulated depreciation to be deducted from the cost of intrastate telephone plant in service in determining net intrastate telephone plant in service. Company witness Long deducted the actual balance in accumulated depreciation as shown on the books at the end of the test year in the amount of $9,726,543 after allocation to intrastate operations. Staff witness Chappell increased the total Company actual depreciation reserve by $151,634 to reflect the effect of Staff and Company adjustments to depreciation expense. Witness Chappell testified that the intrastate effect of the adjustment was to increase the depreciation reserve by $135,359. The intrastate amount of the adjustment made by Ms. Chappell to depreciation reserve was calculated using the intrastate allocation factor provided by Staff witness Gerringer. The Commission has previously concluded that Staff witness Gerringer's intrastate allocation factors developed for allocating total telephone plant in service to intrastate operations are proper, and the Commission also concludes that Staff witness Gerringer's intrastate allocation factor used to allocate the accumulated depreciation to intrastate operations is proper.

The $135,359 adjustment made by Staff witness Chappell increases the accumulated depreciation balance to bring it to an end-of-period level following the adjustments made by Company and Staff to bring depreciation expense to an end-of-period level. Company witness Long adjusted test-period depreciation expense for a change in depreciation rates allowed in Docket No. P-16, Sub 129. Ms. Chappell further adjusted depreciation expense to an end-of-period level using end-of-test-period plant in service and the depreciation rates set in Docket No. P-16, Sub 129. Staff

witness Chappell testified that, since ratepayers are being asked to pay in rates to cover an additional depreciation expense as if the end-of-test-period plant in service had been in service throughout the test period and as if 1976 depreciation rates had been in effect throughout the test year, the accumulated depreciation balance should be correspondingly increased. The Commission concludes that it would be inconsistent to allow the Company to increase its depreciation expense to an end-of-period level and not correspondingly increase the accumulated depreciation balance. The Commission, therefore, accepts Staff witness Chappell's upward adjustment of $135,359 to accumulated depreciation. The Commission concludes that the proper deduction of accumulated depreciation is $9,861,902.

The Commission concludes that the original cost of Concord's intrastate net telephone plant in service for use in this proceeding is $25,464,273.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Company witness Long and Staff witness Chappell each presented a different amount for the working capital allowance shown by the chart below:

Item	Company Witness Long	Staff Witness Chappell
Cash (1/12 of operating expenses)	$ 325,076	$343,104
Compensating bank balances	164,039	-
Materials and supplies	767,429	767,429
Average prepayments	67,204	65,381
Average tax accruals	(248,137)	(255,438)
Customer deposits	(38,270)	(38,270)
Total	$1,037,341	$882,206

Both witnesses' computations of the working capital allowance consist of cash - 1/12 of operating expenses (excluding depreciation and taxes), end-of-period materials and supplies, and average prepayments less average tax accruals and end-of-period customer deposits. Witness Long, however, also included in his computation of working capital allowance compensating bank balances. There are also differences in the methods of computing several of the above-mentioned components of the allowance as determined by Company witness Long and Staff witness Chappell. Each witness computed the cash component of working capital allowance by dividing intrastate operating expenses (less depreciation and taxes) by 12. Company witness Long used the adjusted operating expenses included on Long Exhibit 4, Column (e) plus an annualization adjustment while Staff witness Chappell used expense amounts determined on her Schedule 3, Column (c). The Commission recognizes that the differences between the two expense amounts result from adjustments made by Staff witness Chappell. Under Evidence

and Conclusions for Finding of Fact No. 10, the Commission concludes that total operating expenses, including interest on customer deposits, are $4,111,953 and that this amount adjusted for the effect of the annualization adjustment is $4,120,186. One-twelfth of this amount, or $343,349, is the proper amount for the cash component of working capital allowance.

The witnesses did not agree as to inclusion of compensating bank balances in the computation of the working capital allowance. Witness Long included $164,039 in his allowance for working capital. He testified that the compensating requirement was related to a line of credit with North Carolina National Bank which extended throughout the test year and expired in March 1976. Company witness Widenhouse testified on rebuttal that the compensating bank balance should be included in the working capital allowance because the Company was actually required to and did, in fact, maintain the compensating bank balance during the test year. Company witness Widenhouse further testified that, although Concord Telephone Company does not at this time have short-term debt outstanding with any bank, he felt that the Company would in the future be required to borrow on a short-term basis and, therefore, might incur a compensating bank balance requirement in the future.

Witness Chappell testified that she did not feel it proper to include compensating bank balances in the working capital allowance because the Company currently did not have a line of credit with North Carolina National Bank and was not required to maintain a compensating bank balance. Ms. Chappell further testified that in discussions with Company officials she ascertained that the Company expects to have short-term debt in the range of $900,000 to $1,000,000 by the end of 1977. Ms. Chappell also stated that, based on actual test-period borrowings, the Company would be able to borrow this amount from local banks where no compensating requirement was presently required.

The Commission concludes that it would be improper to include in the working capital allowance amounts relating to compensating bank balances since the Company is not currently required to maintain compensating bank balances. The evidence presented also showed that, although the Company had plans to issue short-term debt during 1977, the short-term debt would likely be available through local banks which do not currently require a compensating bank balance. The Commission recognizes also that the capital structure recommended by Staff witness Kiltie did not contain any short-term debt.

Both witnesses were in agreement on the $767,429 amount for end-of-period materials and supplies. The Commission finds this amount reasonable and concludes that $767,429 is the proper amount of end-of-period materials and supplies to be used in the computation of working capital allowance.

While the difference between average prepayments component of working capital allowance as presented by the two witnesses is only $1,823, the methods used by each witness in determining average prepayments applicable to intrastate operations are different. Company witness Long aggregated total prepayments and applied a composite intrastate allocation factor to determine the intrastate portion of average prepayments to be included as a component of working capital allowance. Staff witness Chappell separated average prepayments by account and allocated each account to intrastate operations by use of the intrastate allocation factor that was associated with the expense account for each of these prepayments. The Commission finds that Staff witness Chappell's calculation of average prepayments is consistent with the methodology used to allocate associated expense accounts to intrastate operations and, therefore, concludes that her amount of average prepayments of $65,381 is more appropriate for inclusion in the computation of the working capital allowance than the amount computed by Company witness Long.

In the computation of intrastate average tax accruals to be used in the determination of the working capital allowance, each witness used essentially the same methodology that he used in the determination of average prepayments. Accordingly, the Commission concludes that the $255,438 amount as presented by Staff witness Chappell is the appropriate amount to be used in the calculation of the working capital allowance.

With respect to the amount of customer deposits which is the final component of the working capital allowance, the two witnesses included the same amount of $38,270. The Commission finds this amount reasonable and concludes that $38,270 is the proper amount of end-of-period customer deposits to be used in the computation of working capital allowance.

The Commission concludes that, consistent with other recent rate case decisions, the formula method of determining the working capital allowance should be used in this case. The Commission has examined all components of the working capital allowance and has made its determination regarding the proper amount of each component as stated in the preceding paragraphs. The Commission concludes that the proper allowance for working capital to be used in this proceeding is $882,451.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

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 Concord 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 $26,346,724, which includes $25,464,273 in net original cost plant and $882,451 in working capital.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Long, Staff witness Gerringer, and Staff witness Chappell presented testimony concerning the representative end-of-period level of operating revenues. Staff witness Gerringer presented testimony concerning Concord's toll settlements with Southern Bell Telephone and Telegraph Company and the Company's appropriate end-of-period level of intrastate toll revenues. The end-of-period toll revenue amount determined by Staff witness Gerringer was included by Staff witness Chappell in her testimony and exhibit. Company witness Long and Staff witness Chappell each testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Long	Staff Witness Chappell
Local service revenues	$6,343,462	$6,447,956
Toll service revenues	2,645,323	2,886,468
Miscellaneous revenues	330,923	330,923
Uncollectibles	(66,781)	(17,925)
Total	$9,252,927	$9,647,422

The first item of difference in operating revenues stated above concerns local service revenues. Company witness Long testified that the appropriate level of local service revenues is $6,343,462 while Staff witness Chappell testified that the appropriate level is $6,447,956 or a difference of $104,494. The $104,494 difference is comprised of the following adjustments made by Staff witness Chappell:

Item	Intrastate Amount
1. Adjustment to increase subscriber station revenue to an end-of-period level	$107,886
2. Adjustment to increase local public station revenues	8,423
3. Adjustment to other local service revenues	23,609
4. Adjustment to eliminate the local loop portion of toll private line revenues from local service revenues	(61,704)
5. Adjustment to increase local service revenues for instituting directory assistance charges	26,280
Total	$104,494

Company witness Long increased actual test-period local service revenues by $225,963 for the increase in rates ordered in Docket No. P-16, Sub 124 and decreased revenues by $110,448 for the reduction in rates ordered in Docket No. P-100, Sub 34. He also applied an annualization factor to net income which has the effect of increasing both operating revenues and operating revenue deductions. Staff witness Chappell adjusted local service revenues by the adjustments indicated above. The Commission will now discuss each of the preceding adjustments comprising the $104,494 difference in local service revenues.

The first adjustment above concerns the proper end-of-period level of subscriber station revenues.

Ms. Chappell testified that she calculated end-of-period subscriber station revenues by multiplying the December level of subscriber station revenues less a calculated subscriber station revenue debit amount by 12. She deducted from this amount the annual effect of the reduction in rates ordered in Docket No. P-100, Sub 34 of $110,448. Ms. Chappell testified that she used a calculated monthly level of subscriber station revenue debit rather than the December level because the December level of subscriber station revenue debit was unrepresentative. She testified that final account cash disbursements and pay station guarantee cash disbursements, which compose most of the subscriber station revenue debit account, were at abnormal levels during the month of December. Ms. Chappell testified that she calculated a representative monthly level of subscriber station revenue debit by multiplying 1.37% times the December level of total subscriber station revenues by exchange. Ms. Chappell stated that she computed a ratio of

1.37% by dividing test-period subscriber station revenue - debit by test-period total subscriber station revenues. Ms. Chappell testified that the method she used resulted in a more representative level of subscriber station revenue debit.

The Commission concludes that the level of subscriber station revenue as calculated by Ms. Chappell is the proper level of revenues to use in computing net operating income for return. The Commission recognizes that in most cases a direct calculation of end-of-period revenues is more accurate than the method of applying an annualization factor to actual revenues accrued during the test year. The Commission concurs also with witness Chappell's method of calculating the subscriber station revenue debit amount because evidence proved that the actual December amount of subscriber station revenue debit was an unrepresentative amount.

The next adjustment made by witness Chappell was an end-of-period adjustment to local public station revenues of $8,423. Ms. Chappell testified that witness Long's method of computing the adjustment to recognize increased local service revenues due to the rate increase allowed in Docket No. P-16, Sub 124 was not an appropriate method of computing the increase in pay station revenues. This is because all of the pay stations were not converted until June 1975. Witness Long adjusted revenues only for the months of January through April rather than January through June. The Commission concludes that the methodology used by witness Chappell results in the most accurate computation of end-of-period local public station revenues because Ms. Chappell's method considers only months in which the full public station rate increase from 10¢ tc 20¢ was in effect. Also, her method gives effect to the decreased volume of calls, if any, resulting from the increase from 10¢ to 20¢ per call. The Commission concludes that local public station revenues of $164,266 as computed by Ms. Chappell should be used in computing net operating income for return.

Witness Chappell made an adjustment of $23,609 to bring other local service revenues to an end-of-period level. She testified that she computed end-of-period other local service revenues by averaging the actual revenues for the months of November 1975 and February 1976 and multiplying that amount by 12. She testified under cross-examination that she chose the months of November and February because they were representative months by which to calculate an annual revenue amount. She testified that the Company also chose these months to compute the proposed increase to be derived from the increase in nonrecurring charges requested in this proceeding. The Commission concurs with witness Chappell's method of calculating end-of-period other local service revenues and concludes that the proper end-of-period level of those revenues is $310,692 as calculated by witness Chappell.

The next difference in local service revenues results from an adjustment proposed by Staff witness Chappell decreasing local service revenues by $61,704 to eliminate amounts properly categorized as toll service revenues. The Commission concludes that this adjustment is proper because these are toll revenues and this type of revenue was included in the amount of end-of-period toll revenues developed by Staff witness Gerringer.

The final adjustment made by Staff witness Chappell is an adjustment of $26,280 to increase local service revenues for directory assistance charges. In Finding of Fact No. 14, the Commission found that charging for directory assistance calls is proper and, therefore, the Commission concludes that the inclusion of $26,280 in test-period revenues is also proper.

The Commission concludes from the examination of evidence presented that the appropriate level of intrastate local service revenues is $6,447,956.

The next area of disagreement between the witnesses concerns the end-of-period level of toll revenues. Witness Long made several adjustments to adjust the toll revenues recorded on the books during the test year to the actual level of toll revenues experienced during the test year. Witness Long testified that he increased actual test-period toll revenues by $61,242 for the results of the 1974 separations cost study which was finalized and recorded during the test year. The Company in recording actual toll revenues during the test year had decreased test-period toll revenues for the overaccrual of toll revenues recorded during 1974. In order to restate test-period toll revenues at a normal level, witness Long found it necessary to increase toll revenues by $61,242, thereby offsetting the adjustment decreasing toll revenues by $61,242 actually recorded during the test year. Witness Long testified that he further increased toll revenues by $2,817 for the results of the 1975 separations cost study which was finalized in 1976. The adjustment increasing toll revenues was necessary to recognize the difference between the estimated toll settlement amount actually recorded during the test year and the finalized toll settlement amount received subsequent to the test year.

Witness Long made a final adjustment of $20,539 decreasing toll revenues for an error made by Southern Bell in computing the intrastate return for the 1975 cost study. Witness Long applied an annualization factor to Company adjusted net income to bring toll revenues to an end-of-period level.

As previously explained, Staff witness Gerringer testified concerning the representative level of end-of-period intrastate toll revenues. Witness Gerringer stated that he utilized the end-of-period level of net investment and operating expenses as calculated by the Company and an

intrastate toll settlement rate of return of 8.06% in calculating the end-of-test-period level of intrastate toll revenues of $2,772,971. The rate of return of 8.06% is based on the sum of the monthly rates of return for the 12-month period, July 1975 through June 1976. Some of these returns reflect 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. Witness Gerringer also testified that in addition to the calculated amount of intrastate toll revenues it was necessary to add a noncost study type of private line toll revenues in the amount of $15,244 to arrive at the total amount of intrastate toll revenues of $2,788,215. Staff witness Gerringer testified that his end-of-period toll revenue calculation did not include the effect of adjustments to the toll settlement base and to operating expenses proposed by Staff witness Chappell.

Staff witness Chappell testified that she used Staff witness Gerringer's amount of $2,788,215 and added $103,274 and deducted $5,021 to reflect the intrastate toll revenue effect of her adjustments to operating expenses and accumulated depreciation, respectively. Company witness Long did not make this adjustment to toll revenues.

Since it was proper for witness Gerringer to calculate the intrastate toll revenues using the intrastate toll portions of the Company's end-of-period total intrastate operations considered for rate-making purposes, the Commission finds it proper and consistent to use the 8.06% intrastate toll settlement rate of return developed by witness Gerringer using a 12-month period with six months falling on each side of the end of the test period. A return so developed allows the corresponding intrastate toll revenues calculated using this return to reflect growth and to be determined consistent with actual settlement arrangements in that end-of-period net investments are representative of average net investments over the 12-month period considered for developing the intrastate toll settlement rate of return.

Under Evidence and Conclusions for Finding of Fact No. 6, the Commission accepted Ms. Chappell's adjustment to accumulated depreciation; therefore, the Commission accepts Ms. Chappell's adjustment decreasing toll revenues by $5,021.

Under Evidence and Conclusions for Finding of Fact No. 10, the Commission accepted all of Ms. Chappell's adjustments to operating expenses with the exception of her adjustment to exclude from maintenance expenses the cost of pay station conversion kits expensed during the test year. The Commission found it more appropriate to amortize the cost of pay station conversion kits expensed during 1975 over a four-year period which decreased Ms. Chappell's adjustment to maintenance expenses from $13,120 to $9,840, a difference

of $3,280. The Commission concurs with the methodology used by Ms. Chappell to compute the toll revenue effect of Staff adjustments to operating expenses. The Commission recognizes that the toll revenue effect of Ms. Chappell's adjustments to operating expenses which were accepted by the Commission is $103,968 rather than $103,274 as calculated by Ms. Chappell since the Commission found it more appropriate to amortize the cost of pay station conversion kits expensed during the test year rather than exclude this expense entirely.

The Commission concludes from examination of the evidence presented that the appropriate level of intrastate toll revenues to be used in this proceeding is $2,887,162. This amount is based on Staff witness Gerringer's end-of-period intrastate toll revenue calculation of $2,772,971 plus private line revenues of $15,244 plus $98,947 representing the intrastate toll revenue effect of those Staff adjustments to accumulated depreciation and to operating expenses which were accepted by the Commission.

The witnesses were in agreement as to the proper level of intrastate miscellaneous revenues to be included in operating revenues. The Commission concludes that the appropriate level of intrastate miscellaneous revenues to be used in arriving at net operating income is $330,923.

The final item of disagreement between the two witnesses involves the appropriate level of uncollectible operating revenues. Company witness Long testified that he adjusted actual test-period uncollectibles for the effect of the pro forma adjustments he made to operating revenues. Witness Chappell testified that she made an adjustment to recognize as test-period uncollectible revenues only the uncollectible revenues relating to local service revenues. She testified further that the end-of-period toll revenues computed by the Staff did not include any amounts to cover uncollectibles; therefore, it would not be proper to include in uncollectible revenues amounts which were not recognized in developing toll revenues.

The Commission finds that uncollectible operating revenues should be adjusted to an end-of-period level based on end-of-period local service revenues using the .278% rate of uncollectibles actually experienced during the test year calculated by Ms. Chappell. The Commission has previously determined that end-of-period local service revenues are $6,447,956; therefore, the Commission concludes that the appropriate end-of-period level of uncollectible revenues is $17,925 ($6,447,956 x .278%).

The Commission finds and concludes that the appropriate level of gross operating revenue net of uncollectibles for Concord for the test year is $9,648,116.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witness Long 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 rates in this proceeding for Concord Telephone Company. The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Long	Staff Witness Chappell
Operating expenses	$3,899,410	$4,107,089
Depreciation	1,698,333	1,774,779
Other operating taxes	969,433	1,041,923
Income taxes - State and Federal	778,294	840,225
Interest on customer deposits	160	1,950
Annualization adjustment	(17,795)	5,135
Total	$7,327,835	$7,771,010

The first item of difference in the operating revenue deductions stated above concerns operating expenses. Company witness Long testified that the appropriate level of operating expenses is $3,899,410 while Staff witness Chappell testified that the appropriate level is $4,107,089, or a difference of $207,679. The $207,679 is comprised of the following adjustments made by Staff witness Chappell and the use of different factors to allocate total operating expenses to intrastate operations:

Item		Intrastate Amount
1. Adjustment for the 1976 wage increase excluding excess overtime pay relating to both the 1975 and 1976 wage adjustments:		
a. Maintenance ($101,204 x .88826)	$89,895	
b. Traffic ($79,623 x .73993)	58,915	
c. Commercial ($20,412 x .89749)	18,320	
d. General office salaries and expenses ($12,907 x .84253)	10,875	
e. Revenue accounting ($5,635 x .8613)	4,856	
		$182,861
2. Adjustment to exclude the cost of pay station conversion kits from test-period maintenance expenses ($13,120 x .88826)		(11,654)
3. Adjustments to recognize the effect of instituting directory assistance charges on operating expenses:		
a. Traffic ($6,934 x .73993)	(5,131)	
b. Revenue accounting ($9,308 x .8613)	8,021	
		2,890
4. Adjustments to general office and other expenses:		
a. Adjustment to eliminate contributions and membership dues	(527)	
b. Adjustment to amortize the cost of a depreciation study over a four-year period	(2,843)	
c. Adjustment to audit expenses	900	
Total ($2,470 x .84253)	(2,470)	(2,081)
5. Adjustments to relief and pensions:		
a. Adjustment to increase workmen's compensation	594	
b. Adjustment to pension plan expense	48,069	
c. Adjustment to group hospitalization insurance	(2,960)	
Total ($45,703 x .82782)	45,703	37,834
6. Total of Staff adjustments		209,850
7. Difference resulting from the use of different factors to allocate total operating expenses to intrastate operations		(2,171)
Total		$207,679

The Commission has considered the testimony and schedules concerning each of the above adjustments made by Staff witness Chappell. Ms. Chappell received cross-examination questions concerning only two of the above adjustments. These were adjustment numbers 2 and 4b concerning the adjustments to exclude the cost of pay station conversion kits and the amortization of the cost of a depreciation study over a four-year period. The Commission agrees with all of the adjustments to operating expenses proposed by Staff witness Chappell with the exception of her adjustment to exclude the cost of pay station conversion kits from test-period maintenance expenses.

Staff witness Chappell proposed an adjustment to exclude from test-period maintenance expenses the cost of pay station conversion kits. Ms. Chappell testified that Concord requested in Docket No. P-16, Sub 124 that 1/3 of the total cost of converting pay stations be included as a reduction in the increased revenues to be derived from the pay station rate increase from 10¢ to 20¢. The Commission did not allow this expense to be recognized. Ms. Chappell admitted on cross-examination that it would be more proper to amortize the cost over an appropriate period of time. She testified that the conversion expense was a proper and necessary expense and that rates should be set to allow the Company to recover this expense; however, Ms. Chappell further testified that she did not feel it would be proper to include this expense in total in the test year because that would allow the Company to recover this expense on an annual basis in the future. She testified that amortizing this expense over an appropriate period of time would be the most proper treatment for this item.

The Commission concludes that it is proper to amortize the cost of pay station conversion kits expensed during the test year over an appropriate period of time. The Commission further concludes that four years is an appropriate period over which to amortize this expense.

The Commission will now discuss the $2,171 difference resulting from the witnesses' using different intrastate allocation factors. Staff witness Chappell used the intrastate allocation factors applicable to each expense category. Alternatively, Company witness Long applied a composite factor to operating expenses after Company adjustments. The Commission finds that Ms. Chappell's method of applying individual intrastate allocation factors to each category of expense results in a more accurate calculation of intrastate operating expenses and, therefore, is the method that should be used to calculate intrastate operating expenses.

The Commission concludes from the examination made and conclusions reached regarding the adjustments presented by Staff witness Chappell and the appropriate allocation factors that the appropriate level of operating expenses to be used in this proceeding as an operating revenue deduction

is $4,110,003. The difference of $2,914 between the operating expenses found proper by the Commission of $4,110,003 and the operating expense level proposed by Ms. Chappell of $4,107,089 represents the intrastate effect of amortizing the pay station conversion kits over a four-year period rather than excluding the expense entirely from test-period operating expenses.

The witnesses are in disagreement as to the appropriate level of end-of-period depreciation expense. Company witness Long testified that the end-of-period level of depreciation expense was $1,698,333 while Staff witness Chappell testified the level was $1,774,779.

Company witness Long adjusted actual test-period depreciation expense of $1,830,606 for the change in depreciation rates allowed in Docket No. P-116, Sub 129 effective January 1, 1976. He computed his adjustment of $66,252 by comparing the result of multiplying the depreciation rates in effect during the test year by end-of-test-period plant balances to the result of multiplying the depreciation rates effective in 1976 by end-of-test-period plant balances. Mr. Long then computed the intrastate depreciation expense by multiplying his adjusted depreciation expense of $1,896,858 by the intrastate allocation factor of 89.534%. Witness Long increased depreciation expense to an end-of-period level by applying an annualization factor of .933% to the Company's adjusted net income.

Staff witness Chappell directly calculated the end-of-period level of depreciation expense by multiplying the depreciation rates effective January 1, 1976, by end-of-test-period plant in service. Ms. Chappell computed an adjustment of $85,382 by comparing her computed end-of-period depreciation expense of $2,005,065 which includes depreciation amounts charged to other expense accounts to Mr. Long's adjusted depreciation expense of $1,919,683 ($1,896,858 + $22,825) which also includes depreciation expense amounts charged to other expense accounts. Ms. Chappell computed the intrastate depreciation expense of $1,774,779 by multiplying her adjusted depreciation expense of $1,982,240 ($1,896,858 + $85,382) by the intrastate allocation factor 89.534%.

The Commission concludes that the depreciation expense of $1,774,779 included by Ms. Chappell is the appropriate amount to be included in operating revenue deductions. The Commission recognizes that the method of directly calculating end-of-period depreciation expense used by Ms. Chappell results in a more accurate calculation of end-of-period depreciation expense than the use of an annualization factor based on primary telephone growth. The Commission concludes that the appropriate level of intrastate depreciation expense is $1,774,779.

The third operating revenue deduction upon which the witnesses disagreed is other operating taxes. The amount presented by Company witness Long of $969,433 is $72,490 less than the amount of $1,041,923 presented by Staff witness Chappell. The $72,490 difference results from the following adjustments proposed by Staff witness Chappell and the use of different factors to allocate total other operating taxes to intrastate operations:

Item	Intrastate Amount
1. Adjustment to payroll taxes resulting from the 1976 wage increase ($14,931 x .82782)	$12,360
2. Adjustment to increase gross receipts taxes based on end-of-period intrastate revenues	54,570
3. Adjustment to increase property taxes ($6,891 x .89450)	6,164
Total of Staff adjustments	73,094
4. Difference resulting from the use of different factors to allocate total other operating taxes to intrastate operations	(604)
Total	$72,490

The Commission has previously discussed the use of different factors by each witness to allocate total amounts to intrastate operations. The Commission has previously concluded that Ms. Chappell's method of applying individual factors to each category of expenses is the method which should be used to determine the appropriate intrastate amounts.

The Commission finds that the adjustments made by witness Chappell to other operating taxes are proper. The Commission recognizes, however, that the level of gross receipts taxes is dependent on the level of intrastate operating revenues found proper by the Commission. In Finding of Fact No. 9, the Commission finds the proper level of operating revenues under present rates to be $9,648,116, rather than the amount included in Chappell Exhibit 1 of $9,647,422. The Commission, therefore, concludes that the proper level of gross receipts taxes to be included in operating revenue deductions is $578,887. The Commission further concludes that the appropriate level of intrastate other operating taxes is $1,041,965.

The next area of difference in the determination of total operating revenue deductions concerns the amount of State and Federal income tax expense. Company witness Long testified that the end-of-period level of State and Federal

income tax expense was $778,294 while Staff witness Chappell testified that the level was $840,225.

Company witness Long included actual test-period income taxes in arriving at test-period operating income for return. He testified that he adjusted book income taxes for the tax effects of his accounting and pro forma adjustments to operating revenues and expenses. He further testified that he excluded from actual test-period income taxes amounts relating to prior periods.

Witness Chappell directly calculated the end-of-period income tax expense using her adjusted level of taxable income. The Commission concurs with the methodology used by Staff witness Chappell to compute end-of-period income taxes.

The Commission recognizes, however, that the appropriate level of income taxes to be included in operating revenue deductions is $839,052 rather than the amount included in Chappell Exhibit 1 of $840,225. The level of income taxes found proper by the Commission differs from the level proposed by witness Chappell because the level of operating revenues, operating revenue deductions, and fixed charges found appropriate by the Commission differs from the level proposed by witness Chappell.

The next operating revenue deduction upon which the two witnesses are in disagreement is interest on customer deposits. Company witness Long included interest on customer deposits of $160, the amount actually paid during the test period, while Staff witness Chappell included an end-of-period amount of $1,950. Witness Chappell testified that it is proper to recognize the interest accrued on end-of-period customer deposits as an operating revenue deduction rather than the amount of interest expense actually paid by the Company during the test year. The Commission concludes that the proper intrastate amount of interest on customer deposits to be included in test-period operating revenue deductions is $1,950 as proposed by witness Chappell because under Evidence and Conclusions for Finding of Fact No. 7 the Commission deducted end-of-period customer deposits in determining the appropriate working capital allowance.

The final operating revenue deduction upon which the two witnesses are in disagreement is the annualization adjustment. Company witness Long computed an annualization adjustment amount of $17,795 to be added to intrastate net income. Witness Long calculated this amount by multiplying the annualization factor of .933% by the Company's adjusted intrastate net operating income. Staff witness Chappell eliminated the annualization adjustment included by the Company. Ms. Chappell calculated a Staff annualization adjustment amount of $5,135 by multiplying the annualization factor of .933% times operating revenues, operating expenses, and operating taxes not brought to end-of-period

levels by direct calculation. The Commission concurs with Ms. Chappell's method of determining the annualization adjustment because the majority of revenues and expenses were brought to an end-of-period level by direct calculation. Only items of revenues and expenses which could not be brought to an end-of-period level by direct calculation were annualized by applying the annualization factor of .933% to the actual test-period amounts. Ms. Chappell's method results in a more accurate level of end-of-period revenues and expenses. After recognizing the Commission's inclusion of 1/4 of the cost of pay station conversion kits in test-period operating expenses, the Commission concludes that the proper intrastate amount for the annualization adjustment is $5,160, instead of the amount of $5,135 included by Ms. Chappell in her exhibit.

The Commission concludes that the appropriate level of intrastate operating revenue deductions is $7,772,909 which includes operating expenses of $4,110,003, depreciation expense of $1,774,779, other operating taxes of $1,041,965, income taxes of $839,052, interest on customer deposits of $1,950, and the Staff's annualization adjustment of $5,160.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 - 13

The Commission adopts for this proceeding the Company's capital structure at December 31, 1976, as presented by Staff witness Kiltie. This capital structure is set out in Finding of Fact No. 11 and reflects a common equity ratio of 37.61%.

Two witnesses testified concerning the cost of capital and the fair rate of return. Phil W. Widenhouse, Executive Vice President, Treasurer, and Assistant Secretary, testified on behalf of Concord Telephone Company and Thomas M. Kiltie testified for the Staff.

There were essentially no differences between the Company and Staff regarding the embedded cost rates for debt and preferred stock, since each witness considered all issues of debt and preferred stock through year-end 1976. Based upon the testimony presented, the Commission concludes that the appropriate cost rates for debt and preferred stock are 7.30% and 4.97%, respectively.

Mr. Widenhouse testified that the fair return on the Company's rate base would be 9.51%, which would produce a rate of return on book common equity of 15.0%. Mr. Widenhouse based his recommendation on the following reasoning:

1. That the cost of common equity is composed of three elements: The rate or rent for the use of capital without respect to risk, the rate of inflation, and the incremental risk allowance for common equity. Mr. Widenhouse assumed that the risk-less rent on capital is 3% and the expected rate of inflation will be 6%, which sum of 9% represents the

current cost of long-term debt. With regard to the incremental risk of common equity, Mr. Widenhouse found that the average historic spread between the Company's equity earnings and its embedded cost of bonds was 6.2%, which, in his opinion, would support his recommended return on common equity of 15%.

2. That the overall rate of return on property should be comparable to other North Carolina operating telephone companies. Mr. Widenhouse stated that the 9.51% overall rate of return which he recommends is nearly identical to the overall rate of return for General Telephone Company and Carolina Telephone and Telegraph Company.

3. That the 15% recommended return on common equity is approximately 1-1/2% higher than that found appropriate for other North Carolina operating telephone companies in recent proceedings. He states that this 1-1/2% premium is justified on the basis of the additional financial risk to the Company's stockholders caused by the relatively large amounts of fixed cost capital employed within the capital structure.

Staff witness Kiltie testified that an overall rate of return in the range of 9.0% to 9.2% would be fair, based upon his findings that the cost of common equity to the Company fell within the bounds of 13.1% to 13.8%. He stated that the Discounted Cash Flow (DCF) technique estimates the cost of common equity to a firm by obtaining estimates of the dividend yield and growth in dividends per share, which an investor might reasonably expect in the future, adding the yield and growth rate together and adjusting the results for the expected costs of floatation of new common stock. Witness Kiltie performed a DCF analysis on a group of 11 operating telephone companies and holding companies. He obtained an estimate of the expected dividend yield 12 months into the future and estimates of the growth in earnings per share for each of the 11 companies. Based upon his DCF findings of a cost of common equity of 12-3/4% to 13-1/2% for Concord, he adjusted for floatation costs yielding his recommended return on equity of 13.1% to 13.8%.

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 the likely effect on both ratepayers and the Company. Viewed in this light, the Commission finds and concludes that the fair rate of return on the fair value of the Company's property providing service to its ratepayers is 9.25%, which will provide a rate of return of 13.97% to the Company's stockholders.

The Commission has considered the success of the Company in the past in attracting both debt and equity capital on favorable terms. Although this Commission has no intention of penalizing any North Carolina utility for efficient financing of its utility plant, the Commission cannot ignore

this lower cost of capital in determining rates. The Commission notes the fact that Concord did, in fact, issue new common stock at a price in excess of book value in May 1976 at a time when the Company was earning a rate of return on common equity below the levels recommended by either rate of return witness in this proceeding.

A rate of return of 9.25% on rate base and 13.97% on common equity will provide ample coverage of the Company's fixed charges, therefore enabling the Company to attract the capital it needs to meet its service obligations to its customers as well as enable its stockholders to earn a fair rate of return on their investment.

The following schedules show the derivation and application of the findings hereinabove and are to be incorporated as part of these findings:

SCHEDULE I
THE CONCORD TELEPHONE COMPANY
DOCKET NO. P-16, SUB 130
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Local service	$6,447,956 1/	$1,226,258	$ 7,674,214
Toll service	2,887,162		2,887,162
Miscellaneous	330,923		330,923
Uncollectibles	(17,925)	(3,409)	(21,334)
Total operating revenues	9,648,116	1,222,849	10,870,965
Operating Expenses			
Maintenance	1,849,488		1,849,488
Depreciation	1,774,779		1,774,779
Traffic	876,523		876,523
Commercial	467,168		467,168
Revenue accounting	212,042		212,042
General office and other expenses	274,248		274,248
Operating rents	55,578		55,578
Relief and pensions	374,956		374,956
Interest on customer deposits	1,950		1,950
Total operating expenses	5,886,732		5,886,732

1/ Includes an amount of $26,280 to be derived from instituting directory assistance charges.

Operating Taxes - Other Than Income			
Payroll	185,303		185,303
Gross receipts	578,887	73,371	652,258
Property	266,879		266,879
Other taxes	10,896		10,896
Total operating taxes	1,041,965	73,371	1,115,336
Total operating expenses and taxes other than income	$6,928,697	$ 73,371	$7,002,068
Annualization adjustment	(5,160)		(5,160)
State income taxes	107,070	68,969	176,039
Federal income taxes	731,982	518,644	1,250,626
Total income taxes	839,052	587,613	1,426,665
Net operating income for return	$1,875,207	$ 561,865	$ 2,437,072
Investment in Telephone Plant			
Telephone plant in service	35,326,175		35,326,175
Less: Accumulated depreciation	9,861,902		9,861,902
Net investment in telephone plant in service	25,464,273		25,464,273
Allowance for Working Capital			
Material and supplies	767,429		767,429
Cash	343,349		343,349
Average prepayments	65,381		65,381
Less: Average tax accruals	255,438		255,438
Customer deposits	38,270		38,270
Total working capital allowance	882,451		882,451
Net investment in telephone plant in service and an allowance for working capital	$26,346,724		$26,346,724
Fair value rate base	$26,346,724		$26,346,724
Rate of return on fair value rate base	7.12%		9.25%

SCHEDULE II
THE CONCORD TELEPHONE COMPANY
DOCKET NO. P-16, SUB 130
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
Capitalization	Present Rates - Fair Value Rate Base			
Total debt	$13,144,380	49.89	7.30	$ 959,540
Preferred stock	1,883,791	7.15	4.97	93,624
Common equity: Book $9,123,870 Job development credit $ 785,133	9,909,003	37.61	8.30	822,043
Cost-free capital	1,409,550	5.35		
Total	$26,346,724	100.00		$1,875,207
	Approved Rates - Fair Value Rate Base			
Total debt	$13,144,380	49.89	7.30	$ 959,540
Preferred stock	1,883,791	7.15	4.97	93,624
Common equity: Book $9,123,870 Job development credit $ 785,133	9,909,003	37.61	13.97	1,383,908
Cost-free capital	1,409,550	5.35		
Total	$26,346,724	100.00		$2,437,072

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

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 charging for directory assistance inquiries is 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 50% 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 decrease of $2,374 and increased revenues of $26,280.

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.

This D.A. plan is considered experimental until further Order relating to this service and until a statewide D.A. charging plan is adopted for all regulated telephone companies in North Carolina.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Phil W. Widenhouse, Executive Vice President, Treasurer, and Assistant Secretary of Concord Telephone Company, testified regarding the Applicant's proposed rate schedules. In addition to increases in basic business and residence rates, Mr. Widenhouse recommended 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. The Applicant's proposals for service charges included increases based on Southern Bell's service charge format. Mr. Widenhouse proposed, in response to Mr. Carpenter's testimony, an alternate provision for the time payment of service charges. He also recommended a provision relating to extension line mileage charges when conduit is provided by the customer, an increase in the recurring charge for jacks, elimination of remaining zone charges, and decreases in optional station rates.

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 testified that, in his opinion, the Company's proposed group sizes and proposed group differentials were reasonable. Mr. Carpenter recommended establishment of a rotary line rate to individual line rate of 1.1 to 1 and inclusion of rotary arrangement in the rate for key and PBX trunks without an additional additive. He also proposed 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. Included in the service charge tariff was a provision for time payment of residence service charges.

Mr. Carpenter also recommended elimination of local mileage charges for foreign exchange arrangements, elimination of the recurring charge for jacks, establishment of a differential between rotary and pushbutton dial key stations, and adjustment of units for nonrecurring charges to reflect end-of-period levels.

Based on the testimony and exhibits of Mr. Widenhouse and Mr. Carpenter, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Concord Telephone Company:

1. Basic Rate Schedule

   (a) The Commission concludes that the ratio between business and residence individual line rates should be increased to 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. Zone Charges

The Commission concludes that all remaining zone charges should be eliminated.

3. Service Charges

The Commission concludes that Concord's 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 proposed by the Staff with a slight modification.

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.

IT IS, THEREFORE, ORDERED:

1. That the Applicant, Concord Telephone Company, be, and hereby is, authorized to adjust its North Carolina telephone rates and charges as set forth below to produce, based upon stations and operations as of December 31, 1975, additional annual gross revenues not to exceed $1,252,538 which includes revenues of $26,280 to be derived from directory assistance charges.

2. That the rates, charges, and regulations set forth in Appendices A, B, and C attached hereto which will produce, based upon stations and operations as of December 31, 1975, additional gross revenues of approximately $1,252,538 be, and hereby are, approved to be charged and implemented by the Applicant, effective on billing dates on and after the date of this Order except as noted hereinafter. All proposed changes not reflected in the approved rates,

charges, and regulations are hereby denied, and all rates, charges, and regulations not herein adjusted shall remain in full force and effect.

3. That the Applicant shall file the necessary revised tariffs reflecting the changes in rates, charges, and regulations shown in Appendices A and B within ten days from the date of this Order. Revised tariffs reflecting the provisions in Appendix C shall be filed at least 15 days prior to the effective date of said provisions.

4. That Concord is authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of this Order and after the NOTICE attached as Appendix D is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. That Concord shall within 30 days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix D, 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 Concord shall place in its telephone directories the directory information included in Appendix D relating to directory assistance charges.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of March, 1977.

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

APPENDIX A
THE CONCORD TELEPHONE COMPANY
DOCKET NO. P-16, SUB 130

BASIC LOCAL SERVICE

Exchange Rate Groups
Monthly Flat Rates

Group	Main Stations and Equivalents	Residence			Business		
		Ind.	2-Pty	4-Pty	Ind.	2-Pty	4-Pty
I	0-20,000	8.10	7.20	5.90	19.20	16.20	13.50
II	20,001-30,000	8.45	7.40	6.15	20.00	17.00	14.15
III	30,001-40,000	8.80	7.65	6.40	21.00	17.50	14.75
IV	40,001-50,000	9.30	8.10	6.60	23.25	19.65	16.15
V	More than 50,000	9.95	8.55	6.80	25.30	21.50	17.50

Exchange	Applicable Rate Group	Exchange	Applicable Rate Group
Albemarle	1	Kannapolis	3
Badin	1	Mt. Pleasant	1
China Grove-Landis	3	New London	1
Concord	3	Oakboro	1
Harrisburg	5		

Note: For remainder of Appendix A and Appendices B, C, and D, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-35, SUB 64

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Mebane Home Telephone) ORDER SETTING
Company for Adjustment of its Rates) RATES AND CHARGES
and Charges)

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on January 4, 5 and 10, 1977.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners Barbara A. Simpson and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Post Office Box 1406, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Jerry B. Fruitt, Associate Attorney General, North Carolina Department of Justice, 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 August 13, 1976, Mebane Home Telephone Company (hereinafter referred to as Mebane Home, the Company, or the Applicant) filed an application for authority to adjust and increase its rates and charges amounting to approximately $340,061 in additional gross

revenues. Mebane Home proposed that the rate schedules filed with the application become effective on September 16, 1976.

On September 3, 1976, the Company filed a Motion for expedited hearing on the application or in the alternative for an emergency increase in its rates alleging that on August 23, 1976, its existing central office was destroyed by fire.

On September 9, 1976, the Commission issued an Order suspending the proposed rates and setting the matter for investigation and hearing to be held on January 25, 1976. By separate Order the Commission set the Company's application for emergency interim rate relief for hearing on September 30, 1976. The Orders required Mebane Home to give appropriate notice of the proposed increases to the public and to its customers.

On September 13, 1976, the Attorney General filed Notice of Intervention in the matter. By Order issued September 14, 1976, the Commission recognized said intervention. Upon hearing the Company's application for emergency interim rate relief, the Commission issued an Order on October 13, 1976, denying the request.

On October 15, 1976, Mebane Home moved that the Commission advance the hearing date of its application. By Order of the Commission dated October 22, 1976, the hearing date was advanced to January 4, 1977, and additional public notice was required.

The public hearing in this matter began on January 4, 1977.

Edward Johnson, a resident of Orange Grove Community near Hillsborough, North Carolina, appeared as a public witness and proposed that the Company make available direct line access to emergency service for its Orange County subscribers.

The Applicant presented the testimony of the following witnesses: William R. Hupman, President of Mebane Home, with regard to Company growth and the demand for additional services and facilities; Carol Seay, bookkeeper for Mebane Home, with regard to the Company's test year operating experience; and Hugh A. Gower, a partner in the firm of Arthur Anderson & Co., independent public accountants, with regard to accounting treatment of investment tax credit and job development credit, pro forma adjustments reflecting retirement of the Company's old central office and installation of new equipment, and calculation of the fair value of the Company's telephone plant.

The Commission Staff offered the testimony of the following witnesses: H. Randolph Currin, Senior Operations Analyst, as to cost of capital and rate of return; Judy L.

Desern, Staff Accountant, as to original cost net investment, revenues, expenses, and end-of-period rates of return under present and Company proposed rates; Hugh L. Gerringer, Telephone Engineer, as to toll settlements and a representative level of end-of-period toll revenues; Benjamin R. Turner, Jr., Telephone Engineer, as to quality of service and central office engineering and reasonableness of plant margins; Vern W. Chase, Chief Engineer, Telephone Rate Section, as to directory assistance charges; William J. Willis, Jr., Rates and Tariffs Engineer, as to review of proposed tariffs and alternative recommendations; and Allen L. Clapp, Chief, Operations Analysis Section, as to replacement cost and fair value.

In addition to its prefiled testimony, Mebane Home offered rebuttal testimony of the following witnesses: Paul Feight, Senior Sales Engineer with Stromberg-Carlson; W. E. Thaxton, President of Mid-South Consulting Engineers, Inc.; William R. Hupman, as to central office engineering and plant margins; and Hugh A. Gower as to replacement cost.

The Commission Staff offered the rebuttal testimony of Donald R. Hoover, Coordinator, Electric Section, Accounting Division, with respect to the Company's capital structure and the rate-making and accounting treatment of nonutility items, including construction work in progress.

At the conclusion of the hearing on January 10, 1977, the Commission heard oral argument in lieu of briefs in the matter.

Based upon the application, the evidence adduced at the hearing, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That Mebane Home Telephone Company, a North Carolina corporation, is a duly franchised public utility providing telephone service to subscribers in North Carolina and is lawfully before this Commission for a determination as to the justness and reasonableness of its rates and charges pursuant to Chapter 62 of the General Statutes of North Carolina.

2. That the total increase in rates and charges sought by Mebane Home in its application would have produced approximately $340,061 in additional annual gross revenues based on a test period ended May 31, 1976.

3. That the last rate increase approved for Mebane Home became effective April 1, 1968, and that in March 1976 the Commission reduced Mebane Home's rates by $3,246 annually in order to offset a portion of an anticipated intrastate toll rate increase.

4. That the overall quality of service provided by Mebane Home to its customers is adequate.

5. That as of December 31, 1976, the Company had excess plant investment consisting of 1,000 lines and terminals amounting to $175,639, which was not used and useful in rendering telephone service.

6. That the original cost of Mebane Home Telephone Company's investment in telephone plant used and useful in providing service in North Carolina is $5,030,501. From this amount should be deducted the reasonable accumulated provision for depreciation at May 31, 1976, of $1,083,907, resulting in a reasonable original cost less depreciation of $3,946,594.

7. That Mebane Home 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 $118,500.

8. That the reasonable allowance for working capital is $73,355.

9. That the reasonable replacement cost less depreciation of Mebane Home's plant used and useful in providing telephone service in North Carolina is $4,244,361.

10. That the fair value of Mebane Home's plant used and useful in providing telephone service in North Carolina should be derived by giving 9/10 weighting to the reasonable original cost less depreciation of Mebane Home's plant in service and 1/10 weighting to the depreciated replacement cost of Mebane Home's plant. Using this method, with the depreciated original cost of $3,946,594 and the depreciated replacement cost of $4,244,361, the Commission finds that the fair value of Mebane Home's utility plant in North Carolina is $3,976,371. This fair value includes a reasonable fair value increment of $29,777.

11. That the fair value of Mebane Home Telephone Company's plant in service to its customers in North Carolina at the end of the test year of $3,976,371, plus the reasonable allowance for working capital of $73,355 and the investment in Rural Telephone Bank Class B stock of $118,500, yields a reasonable fair value of Mebane Home's property in service to North Carolina customers of $4,168,226.

12. That Mebane Home Telephone Company's operating revenues net of uncollectibles for the test year after accounting and pro forma adjustments under present rates are approximately $847,325 and under proposed rates would have been $996,994.

13. That Mebane Home Telephone Company's operating revenue deductions after acccunting and pro forma

adjustments are approximately $753,070, which includes an amount of $225,013 for actual investment currently consumed through reasonable actual depreciation.

14. That cost-free funds arising from the Job Development Investment Tax Credit, implemented by the Revenue Act of 1971, should be included in the capital structure at zero cost.

15. That the capital structure which is proper for use in this proceeding is as follows:

Item (a)	Percent (b)
Long-term debt	81.86%
Common equity	10.28%
Cost-free capital	7.86%
Total	100.00%

16. 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	81.28%
Common equity	10.92%
Cost-free capital	7.80%
Total	100.00%

17. That the Company's proper embedded cost of total debt is 3.56%. The fair rate of return which should be applied to the fair value rate base is 4.40%. This return on Mebane Home's fair value property of 4.40% will allow a return on fair value equity of 13.80% after recovery of the embedded cost of debt. A return of 13.80% on fair value equity results in a return of 14.76% on original cost common equity.

18. That Mebane Home should be allowed an increase in additional annual gross revenues not exceeding $151,135 in order for it to have an opportunity through efficient management to earn the 4.40% 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 attached hereto as Appendices A, B, and C is just and reasonable and the same should be used by the Company to generate the $151,135 additional annual gross revenue requirement.

20. 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 of requiring those who use the service excessively to pay in accordance with the service used.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 3

The evidence for Findings of Fact Nos. 1 - 3 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 in nature and are not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Company witness Hupman and Staff witness Turner testified as to the quality of service provided by Mebane Home.

Mr. Hupman testified that Mebane Home was among the first in North Carolina to convert from magneto to dial operation and was North Carolina's first all private line system. The Company has no mileage or zone charges in effect. Mebane Home now provides complete, modern direct distance dial service. Touch tone service is available to all its customers. In addition, the Company has a sufficient number of qualified personnel.

Mr. Turner's testimony contained the results of the Commission Staff's investigation of the quality of telephone service provided by Mebane Home. He testified that the Staff's evaluation was based on field tests consisting of completion tests, transmission and noise measurements, operator answer time tests, public pay station tests, and an analysis of trouble reports, service orders and subscriber held orders for new and upgraded service. The Staff's investigation shows that, in general, the Company was meeting the Commission's previously established minimum levels of adequate service.

Based on the evidence of record, the Commission concludes that the overall quality of service offered by Mebane Home Telephone Company is adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence as to the reasonableness of the telephone plant investment is found in the testimony of Staff witness Turner and Company witnesses Hupman, Feight, and Thaxton.

Staff witness Turner testified concerning the reasonableness of the telephone plant investment. He concluded that, based on a growth forecast of 250 lines per year and a reasonable engineering interval of one year for additional lines, the Company has 1,000 excess lines which are not used and useful in providing telephone service. He

determined that this was equal to an estimated investment of $151,000.

Regarding outside plant engineering, Mr. Turner testified that the Company was using copper shielded telephone cable instead of a more economical fused polyethylene coated aluminum shielded (FPA) cable. He stated that the FPA cable is lower in price and meets REA specifications. Based on this information, he concluded that the use of copper shielded cable does not reflect prudent management when a durable and less expensive alternative is available.

Rebuttal testimony was offered by witnesses Hupman, Feight, and Thaxton. Mr. Hupman testified concerning his decision to purchase a central office initially sized at 5500 lines instead of 4500 lines and his reasons for selecting copper shielded cable instead of coated aluminum shielded cable for outside plant. Mr. Feight testified concerning Stromberg-Carlson's sales policies and their required engineering intervals. Mr. Thaxton testified concerning Mid-South's engineering study prepared for Mebane Home and the basis for the 5-year central office growth forecast.

Mr. Hupman testified that he made his decision on the basis of the information he had at the time but that he considered reducing the planned size of the central office to 4500 lines with an associated price reduction of $176,000. He further stated that he did not consider the savings significant in terms of the number of lines he would be giving up. Regarding the type of cable being used, Mr. Hupman stated that, while both types of cable are approved by REA, he believes that the copper shielded cable is better for his Company.

Mr. Feight testified that Stromberg-Carlson would require a manufacturing and installation interval for the ESCI PL2 central office of 28 months.

Mr. Thaxton testified that the 10.5% growth rate used in the Mid-South engineering report to Mebane Home had been computed by increasing the nationwide telephone utility growth rate of 7% by 50% since Mebane Home had been a slow growth area and appeared ready to take off into a rapid growth situation at the time the study was prepared on March 20, 1972.

The Commission is of the opinion that thoughtful periodic analysis of the information contained in demand and facilities charts will enable the Company to minimize the risk of excessive investment in central office equipment. The chart which is Turner Exhibit 6 clearly shows the following: (1) that Mebane Home's historical growth rate is far below the Company's projected growth rate of 400 main stations per year and (2) that the actual growth rate was declining with respect to the projected growth rate some 20 months prior to the time the order was placed for the 5500-

line central office. Moreover, the Company admitted that it considered reducing the initial 5,500-line capacity of the office to 4,500 lines with an investment reduction of $176,000. Thus, the Commission concludes that the investment was avoidable and excessive beyond any reasonable margin for future growth.

Based on the foregoing, the Commission concludes that Mebane Home has excess central office margin equal to 1,000 lines which is not used and useful in providing telephone service. The amount of this investment is determined to be $175,639, which is the difference between the installed price of the 5500-line central office of $1,170,057 and the quoted price for the alternative 4500-line central office of $994,418. The quantity of lines is based on a reasonable growth forecast of 250 lines per year and a one-year engineering interval for central office line additions.

The Commission further concludes that the Company has not shown reasonable grounds for using copper shielded cable where a viable and less expensive alternative is available. While the Commission is not making an adjustment to the rate base in this case, the continued use of copper shielded cable may be cause for a rate base adjustment in the future.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The Commission will now analyze the testimony and exhibits presented by Company witness Seay and Staff witness Desern concerning the original cost net investment in telephone plant in service. The following chart summarizes the amounts which each of the witnesses contends is proper:

Item (a)	Company Witness Seay (b)	Staff Witness Desern (c)
Telephone plant in service	$5,258,765	$5,055,140
Less: Reserve for depreciation	1,035,712	1,057,027
Net telephone plant in service	$4,223,053	$3,998,113

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. Company witness Seay testified that the test year level of telephone plant in service was $5,258,765. Staff witness Desern testified that the test year level of telephone plant in service was $5,055,140, which is $203,625 less than that proposed by witness Seay. This difference results from the following:

Item (a)	Amount (b)
Staff adjustment to reflect documented construction cost of new central office building	$ 26,372
Staff adjustment to reflect additional retirement of old central office equipment	(43,529)
Staff adjustment to reflect documented construction cost of new central office equipment	2,352
Staff adjustment to reclassify large PBX from telephone plant in service to materials and supplies	(37,820)
Engineering Staff adjustment to eliminate excess telephone plant margin	(151,000)
	$(203,625)

Witness Seay's end-of-period level of telephone plant in service includes the estimated rather than the actual construction cost of the Company's new central office equipment and building and does not reflect the reduction in the original cost of the old central office equipment which was occasioned by the fire experienced by the Company in August of 1976.

Witness Desern's end-of-period level of telephone plant in service, as reflected above, was adjusted to include the actual documented construction costs of the new central office equipment and building which the Company had incurred up until the time the hearing was closed. (The new central office was placed in service in September of 1976 and the hearing in this docket, Docket No. P-35, Sub 64, was closed in January of 1977.) Also as reflected above, witness Desern's end-of-period telephone plant in service was adjusted to give effect to the reduction in the original cost of the old central office equipment which was occasioned by the fire experienced by the Company in August of 1976.

It is the Commission's statutory duty to consider relevant, material and competent evidence showing actual 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. Accordingly, the Commission adopts the Staff's adjustments to reflect the documented construction cost of the new central office equipment and building, as revised at the time of the hearing, in the amount of $28,724 and the Staff's adjustment to reflect the additional retirement of old central office equipment in the amount of $43,529 which

was occasioned by the fire experienced by the Company in August of 1976.

With regard to the Staff's adjustment to reclassify the large PBX from telephone plant in service to materials and supplies, witness Desern testified that this adjustment is required to remove from utility plant in service telephone plant which is no longer used and useful in providing service. Retirement of the large PBX results from the Company's loss of one of its major commercial customers, Dow Badische. As discussed under evidence and conclusions for subsequent findings of fact and consistent with the Staff's adjustment to exclude the Dow Badische PBX from the test year level of investment, witness Desern reduced the test year level of operating revenues by $67,254 and the test year level of depreciation expense by $2,458 to give full effect to the changes in revenues and costs which the Company will experience as a result of the termination of service to Dow Badische. While witness Seay did not eliminate the large PBX from the test year level of investment or the attendant depreciation from the test year level of expense, she did reduce the test year level of operating revenues by $67,254 to reflect the revenue effect of termination of service to Dow Badische.

The Commission has adopted the adjustment to exclude from the test year level of operating revenues the revenues derived from Dow Badische and the adjustment to exclude depreciation related to the large PBX from the test year level of expense. To achieve a proper matching of revenues and costs, it is entirely necessary and consistent to reduce telephone plant in service to reflect the retirement of the large PBX installed at Dow Badische. Accordingly, in arriving at the test year level of investment, the Commission will exclude from telephone plant in service the large PBX installed at Dow Badische in the amount of $37,820.

As will be discussed, subsequently, the Commission has excluded from the test year level of utility plant in service $175,639 of excess telephone plant margin.

Consistent with the adjustments described above, the Commission concludes that the following calculation of telephone plant in service of $5,030,501 is appropriate for use herein:

Item (a)		Amount (b)
Telephone plant in service proposed by Company witness Seay		$5,258,765
Add:	Staff's adjustment to reflect the documented construction cost of new central office equipment and building	28,724
Less:	Staff's adjustment to reflect the additional retirement of old central office equipment	43,529
	Engineering Staff's adjustment to eliminate excess telephone plant margin	175,639
	Staff's adjustment to retire the large PBX installed at Dow Badische	37,820
		$5,030,501

The next area of disagreement between the witnesses is the amount properly includable as the reserve for depreciation. Staff witness Desern testified that the end-of-period depreciation reserve was $1,057,027, which is $21,315 more than the $1,035,712 end-of-period level proposed by Company witness Seay. This difference results from the following:

Item (a)	Amount (b)
Staff's adjustment to give effect to the Company's end-of-period adjustment to depreciation expense	$41,426
Staff's adjustment to depreciation expense applicable to central office equipment and building	(11,034)
Staff's adjustment to eliminate depreciation on large PBX retired	(2,458)
Staff's adjustment to depreciation reserve to reflect additional retirement of old central office equipment	(6,619)
	$21,315

In arriving at the proper level of operating revenue deductions, as shown in Evidence and Conclusions for Finding of Fact No. 13, infra, we have added an amount of $41,426 to depreciation expense to give effect to the Company's adjustment to bring depreciation expense to an end-of-period level and deducted from depreciation expense an amount of $12,019 to reflect the depreciation applicable to the Company's test year level of investment in its central

office equipment and building and an amount of $2,458 to eliminate depreciation applicable to the large PBX installed at Dow Badische which is no longer used and useful in providing service. Consistent with the adjustments to depreciation expense described above, we have made the corollary adjustments to the reserve for depreciation.

As previously discussed, additional equipment from the old central office was retired as a result of the fire experienced by the Company in August of 1976. Since the Commission has adopted the Staff's adjustment to reflect the additional retirement of old central office as a result of the August fire, the Commission concludes that it is proper to eliminate the depreciation reserve related to this additional retirement in the amount of $6,619.

As a result of the August fire and after consideration of salvage and insurance proceeds, the Company experienced a gain of approximately $57,007 upon retirement of the old central office equipment. Accordingly, the Commission will include the gain, net of the income tax effects, in the amount of $27,865, in arriving at the test year level of the reserve for depreciation.

Based on the adjustments described above, the Commission concludes that the following calculation of the reserve for depreciation of $1,083,907 is appropriate for use herein:

Item (a)	Amount (b)
Reserve for depreciation per Company	$1,035,712
Add: Adjustment to increase depreciation expense	41,426
Adjustment to depreciation reserve to reflect the gain on retirement of the old central office equipment	27,865
Deduct: Adjustments to decrease depreciation expense	14,477
Adjustment to depreciation reserve to reflect additional retirement of the old central office equipment	6,619
	$1,083,907

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	$5,030,501
Less: Reserve for depreciation	1,083,907
Net telephone plant in service	$3,946,594

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Staff witness Desern proposed that Mebane Home Telephone Company's investment in Rural Telephone Bank (RTB) Class B stock in the amount of $11,8,500 be included in the calculation of the original cost net investment. Company witness Seay did not include this item of cost in her determination of the original cost net investment. Witness Desern 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 Mebane Home 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 Mebane Home Telephone Company's investment in RTB Class B stock in the amount of $11,8,500 should be included in the original cost net investment.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission will now analyze the testimony and exhibits of Company witness Seay and Staff witness Desern 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 amounts proposed by each witness:

Item (a)	Company Witness Seay (b)	Staff Witness Desern (c)
Cash	$ 43,112	$ 35,100
Materials and supplies	28,951	66,771
Average prepayments	7,587	7,587
Average tax accruals	(39,185)	(24,111)
Customer deposits	(12,278)	(12,278)
	$ 28,187	$ 73,069

The difference of $44,882 between the levels of working capital proposed by each witness results from the witnesses having employed different methods in determining the allowance for working capital and from Staff witness Desern's adjustment to retire the large PBX installed at Dow Badische which is no longer used and useful in providing telephone service.

Company witness Seay testified that the working capital allowance which she considered proper was composed of a cash allowance of 1/12 of operating revenue deductions, excluding depreciation and after pro forma adjustments, plus materials and supplies and average prepayments, less average tax accrual and end-of-period customer deposits. Staff witness Desern testified that the working capital allowance which she 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.

As previously stated, Staff witness Desern proposed an adjustment to retire the large PBX installed at Dow Badische which is no longer used and useful in providing service. Witness Desern proposed that the original cost of the large PBX be reclassified from telephone plant in service to materials and supplies. The Commission, having previously found the retirement of the large PBX to be proper, adopts the $37,820 increase in materials and supplies.

Based on the foregoing discussion, the Commission concludes that the following calculation of allowance for working capital is appropriate for use herein:

Item (a)	Amount (b)
Cash (1/12 of operating expenses)	$ 35,386
Materials and supplies	66,771
Average prepayments	7,587
Average tax accruals	(24,111)
Customer deposits	(12,278)
	$ 73,355

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9, 10, AND 11

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 much of the 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 specific recommended adjustment for the economies which would be achieved through "mass impulse" plant construction.

Company witness Gower testified with respect to his determination of the replacement cost valuation of the Company's North Carolina properties used and useful in furnishing telephone service as of May 31, 1976. Mr. Gower calculated his replacement cost in two stages using the total as an estimate of replacement cost. The new central office was included at original cost and was neither trended up nor depreciated. The remaining plant less depreciation was trended up to approximate the reproduction cost less depreciation. For trending this "other" plant, subindices of the Gross National Product Implicit Price Deflator were used. These calculations consisted of trending the net change in original cost plant dollars for each year to the price level as of May 31, 1976.

Staff witness Clapp 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, 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.

Mr. Clapp's testimony included a discussion of Mr. Gower's calculations. He testified that the result of Mr. Gower's

using reproduction cost as replacement cost was to fail to discount reproduction cost to remove the overstatements caused by piecemeal construction, less efficient plant and equipment, etc., inherent in the existing plant due to the fact that it was built piece by piece over time, rather than in one well organized construction task, and other similar factors.

Mr. Clapp agreed that the new central office should be included at original cost and neither trended nor depreciated. He did, however, criticize Mr. Gower's trending methods.

After reviewing and rejecting witness Gower's method, witness Clapp testified that in his judgment, if the Company data with which to perform a proper study was available, the increase of replacement cost less depreciation over original cost less depreciation would be between 10% and 17%. He recommended to the Commission that, considering the circumstances and available information, a reasonable replacement cost less depreciation of the Company's plant in service is $4,420,000. This would include land and the new central office at original cost and the replacement cost less depreciation. The "other" plant would have increased by 14.1% over the original cost less depreciation.

Witness Clapp stated that the object of calculating a replacement cost is to calculate the cost, in today's dollars, of the remaining usefulness of the existing plant. If trending original cost from the time of installation to the present is the method used to calculate the trended original cost of the existing plant, then the depreciation cost which has accrued to that plant due to past use, outmoded design, piecemeal construction, etc., must also be trended from the time of installation to properly reflect the percentage of the usefulness of the plant which has been consumed. This process of trending <u>both</u> the original cost and its depreciation from the date of installation of the plant to the present is called the vintage depreciation method and is the method approved by this Commission for use in depreciation reproduction cost and replacement cost.

The method utilized by witness Gower, which trends the original cost from the date of installation, i.e., by a large trend factor, and trends the depreciation from date of accrual, i.e., by a small trend factor, is called the aged depreciation method. This method, by its own design, consistently overstates the real reproduction cost less depreciation and has been consistently rejected by this Commission for the purposes of replacement cost calculations. Replacement cost less depreciation is a plant cost and plant condition related concept and is not necessarily related to the amount of depreciation accruals which have flowed from normal accounting practices on a book basis. The Commission is required to consider both the plant condition related replacement cost and the booked

original cost in its determination of the fair value rate base.

The Commission concludes that the reasonable replacement cost less depreciation and excess plant margin of Mebane Home Telephone Company's plant in service at May 31, 1976, is $4,244,361.

Having determined the appropriate original cost of net investment in plant in service to be $3,946,594 and the reasonable estimate of replacement cost of that plant to be $4,244,361, the Commission must determine the fair value of Mebane Home's net plant in service.

The process of weighting replacement cost less depreciation and original cost less depreciation in determining fair value allows the Commission to exercise its judgment with respect to the reliability of the replacement cost estimates and to the degree to which the Company should be compensated for inflation. Since it is impossible to compensate bondholders after the fact 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 stockholders. 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. A greater weighting to replacement cost would overcompensate the equity holders since the return earned on the portion of the fair value increment which was supplied by debt holders would accrue to the equity holders in addition to the return on the equity investment. While bondholders cannot be compensated monetarily by the inclusion of a portion of replacement cost in the fair value rate base, the express allowance of a fair value increment further protects the bondholders' investment by increasing the earning value of the assets underlying the investment.

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 reduce to a mathematical formula the exercise of the Commission's judgment. This treatment requires the Commission to assume that the original cost figures 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 determination of 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 recognizes that inflation rates have fallen and are expected to remain below those experienced in recent years. In

addition, the Company has recently made major replacements of plant.

The Commission concludes that a 9/10 to 1/10 weighting of original cost to replacement cost is not unreasonable in this case. By this method, using the depreciated original cost of $3,946,594 and the depreciated replacement cost of $4,244,361, the Commission finds that the fair value of Mebane Home's utility plant devoted to telephone service in North Carolina is $3,976,371. This fair value includes a reasonable fair value increment of $29,777.

The fair value of Mebane Home's plant in service to its customers in North Carolina at the end of the test year of $3,976,371 plus the reasonable allowance for working capital of $73,355 and the investment in Rural Telephone Bank Class B stock of $118,500 yields a reasonable fair value of Mebane Home's property in service to North Carolina customers of $4,168,226.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Seay and Staff witnesses Desern and Gerringer presented testimony concerning the appropriate level of operating revenues. Staff witness Gerringer's testimony specifically concerned the procedures employed in the determination of the Company's end-of-period level of toll revenues for the test period. Witness Seay and witness Desern testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following chart presents the amounts proposed by each witness:

Item	Company Witness Seay	Staff Witness Desern
(a)	(b)	(c)
Local service	$503,998	$513,109
Toll service	296,990	299,840
Miscellaneous	39,350	39,350
Uncollectibles	(4,875)	(4,370)
	$835,463	$847,929

The difference of $9,111 ($513,109 - $503,998) between the levels of local service revenues proposed by each witness arises from the witnesses having employed different methods in calculating the end-of-period level of local service revenues and from the witnesses having employed different methods in calculating the effect of the Company's 1976 Operator Service Agreement with Southern Bell.

Company witness Seay calculated the end-of-period level of local service revenues by multiplying the number of units in each class of service at the end of the test year by the present monthly rate per unit for 12 months.

Staff witness Desern calculated the test year level of local service revenues by multiplying the actual test year level of local service revenues, net of nonrecurring charges, by an annualization factor based on the growth in primary stations. Staff witness Desern testified that utilization of the annualization factor was required in that the Staff could not determine, from the information available within a reasonable time, the propriety of the Company's adjustment to bring local service revenues to an end-of-period level. The Staff was concerned that all units comprising local service revenues had not been considered in the Company's end-of-period calculation.

Based on the foregoing discussion, the Commission concludes that the method of determining the end-of-period level of local service revenues proposed by the Staff is consistent with methods employed by the Commission in recent rate proceedings and that this method more accurately reflects the end-of-period level of local service revenues. Accordingly, the Commission adopts the Staff's adjustment of $7,829 to bring local service revenues to an end-of-period level.

Company witness Seay and Staff witnesses Desern and Chase offered testimony concerning the effect that the Company's 1976 Operator Service Agreement with Southern Bell will have on the test year level of operations. In all material respects, the differences between the witnesses' testimony result from witness Seay's having used estimated data in her calculations, whereas the Staff's calculations are based on actual data, and from witness Seay's having reflected the revenues to be realized from directory assistance charges under the Company's proposed rates, whereas witnesses Desern and Chase included directory assistance revenues in their calculation of the test year effect of the 1976 Operator Service Agreement.

The Commission believes the Staff's calculation of the test year effect of the 1976 Operator Service Agreement to be more exact than that proposed by the Company in that it is based on actual data. However, the Commission also believes that revenues to be realized from directory assistance charges, which are authorized herein, should not be reflected as a reduction in the test year level of expense. Accordingly, the Commission will adopt the Staff's adjustment in the amount of $672, to reflect the effect that the Company's 1976 Operator Service Agreement will have on the test year level of operations excluding that portion applicable to directory assistance charges.

Based on the foregoing discussion of evidence in this proceeding, the Commission concludes that the proper level of local service revenues is $512,499.

The next item of difference between the witnesses' testimony is the amount properly includable as toll service revenues. This difference results from Staff witness

Gerringer's adjustment to reflect the estimated effect of the interstate toll rate increase granted by the Federal Communications Commission (FCC) and Staff witness Desern's adjustment to reflect correction of a computational error made by the Company.

Staff witness Gerringer testified that he was in agreement with the actual test year level of combined interstate and intrastate toll revenues reported by Company witness Seay. Witness Gerringer did, however, propose a pro forma adjustment to reflect in the test year level of operations the full effect of the change in interstate toll rates that became effective by FCC order on February 29, 1976. Since this case is being considered on a combined (interstate plus intrastate) basis, it is proper to adjust toll revenues to give effect to the increase in interstate toll rates. Accordingly, the Commission adopts the Staff's adjustment to increase interstate toll revenues in the amount of $2,830. Witness Seay's pro forma adjustment to reflect over the first month of the test period the increase in intrastate toll rates effective July 1, 1975, contains a mathematical error in the amount of $20. The total adjustment to toll revenues therefore is $2,850.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the test year level of toll service revenues is $299,840.

The evidence shows that the witnesses are in agreement with regard to the proper level of miscellaneous revenues. The Commission, therefore, concludes that the proper level of miscellaneous revenues is $39,350.

The remaining item of difference between the witnesses' testimony is the amount properly includable as uncollectible revenues. Staff witness Desern adjusted the test year level of uncollectible revenues to give effect to related operating revenue adjustments. Witness Desern calculated the adjustment by multiplying both the Company's and the Staff's operating revenue adjustments (net) times the uncollectible rate of .97% used during the test year. The Commission believes it is proper to adjust uncollectible revenues to give effect to related operating revenue adjustments adopted in this proceeding and, accordingly, adopts the decrease in uncollectible revenues proposed by the Staff of $511, excluding that portion related to directory assistance charges which has been reflected as a reduction in arriving at operating income to be derived from the increase in rates approved herein.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the test year level of uncollectible revenues is $4,364.

The Commission concludes that the following calculation of operating revenues of $847,325 is appropriate for use herein:

Item (a)	Amount (b)
Local service	$512,499
Toll service	299,840
Miscellaneous	39,350
Uncollectibles	(4,364)
	$847,325

Consistent with findings discussed herein, the Commission has excluded $67,254 in revenue realized from Dow Badische in arriving at the test year level of operations. Having fully recognized the material effect of termination of service to Dow Badische, the Commission also recognizes the likelihood of a significant increase in the Company's rate of return should service to the Dow Badische plant be restored. The magnitude of such an increase would, of course, depend largely upon economic conditions existing at that time. The Commission, therefore, believes that Mebane Home should be required to file with the Chief Clerk of the Commission a calculation of the level of earnings actually achieved during the 12-month period ending with the month immediately preceding the month in which service is restored to the Dow Badische plant and a pro forma calculation of the level of earnings which the Company expects to achieve, based on the same 12-month period, including appropriate adjustments to reflect the restoration of service to the Dow Badische plant. The calculations filed with the Chief Clerk should reflect actual and pro forma rates of return on investment and returns on common equity and should include copies of all supporting workpapers.

The Commission further concludes that the Company should report to the Commission immediately upon restoring to used and useful service of any customer the plant formerly used to serve Dow Badische.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company witness Seay and Staff witness Desern offered testimony and exhibits presenting the level of 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 Seay (b)	Staff Witness Desern (c)
Operating revenue deductions		
Maintenance	$212,994	$214,337
Traffic	10,114	10,114
Commercial	13,987	13,877
General office salaries and expenses	122,819	122,429
Other operating expenses	49,120	49,120
Depreciation	239,490	225,998
Amortization	26,161	7,605
Staff annualization adjustment	-	2,522
Operating taxes other than income	116,369	113,387
Interest on customer deposits	329	329
Income taxes	(26,015)	(7,548)
	$765,368	$752,170

As shown in the above chart, the witnesses disagreed as to the amount properly includable as maintenance expense. This difference of $1,343 ($214,337 - $212,994) results from Staff witness Desern's adjustments to reflect the additional electric energy requirements of the new central office equipment in addition to the amount included by the Company and to reflect correction of a computational error made by the Company.

Company witness Seay based her calculation of the additional electric energy requirements of the new central office equipment on an estimate by a Duke Power Company representative. Staff witness Desern based her calculation on the October bill from Duke Power Company, which was the first full month the new central office equipment was in service. The Commission concludes that the Staff's adjusted level is more representative of the Company's electric energy requirements in that it is based on actual data and, accordingly, adopts the increase in maintenance expense of $1,505.

Based on the foregoing discussion, the Commission concludes that the proper level of maintenance expense is $214,337.

The second area of difference in the test year level of operating revenue deduction concerns commercial expenses. This difference of $110 ($13,987 - $13,877) results from Staff witness Desern's adjustment to eliminate Kiwanis Club dues from the test year level of operating expenses. The Commission believes that membership dues in civic organizations are not necessary and reasonable operating expenses of a public utility and, accordingly, adopts $13,877 as the proper level of commercial expenses to be included in the test year level of expense.

The third area of difference concerns the amount properly includable as the test year level of general office salaries and expenses. This difference of $390 ($122,819 - $122,429) results from Staff witness Desern's adjustment to eliminate Exchange Club dues from the test year level of operating expenses. The Commission, having previously found that civic club dues are not necessary and reasonable operating expenses of a public utility, adopts $122,429 as the proper test year level of general office salaries and expenses.

The fourth area of difference in the test year level of operating revenue deductions concerns depreciation. Company witness Seay testified that the appropriate level of depreciation expense was $239,490, while Staff witness Desern testified that the appropriate level was $225,998. The difference of $13,492 results from the different levels of cost used by the witnesses to reflect addition of the new central office to utility plant in service and to reflect retirement of the old central office equipment from utility plant in service, witness Desern's adjustment to retire the large PBX installed at Dow Badische, and her adjustment to eliminate the excess telephone plant margin as proposed by Staff witness Turner. As previously discussed, the Commission has adopted the Staff's adjustments to reflect the documented construction cost of the new central office, the retirement of old central office equipment, the retirement of the large PBX installed at Dow Badische, and an adjustment to eliminate the excess telephone plant margin as proposed by Staff witness Turner.

Accordingly, the Commission adopts the Staff's adjusted level of depreciation expense, including the related effect of the excess telephone plant margin adjustment in excess of that recommended by the Staff. The Commission concludes that the following calculation of depreciation expense is appropriate for use herein:

Item (a)	Amount (b)
Depreciation expense proposed by Company witness Seay	$239,490
Less: Depreciation expense applicable to the documented cost of the new central office and retirement of the old central office equipment	12,019
Depreciation expense applicable to the retirement of Dow Badische's large PBX	2,458
	$225,013

The fifth area of difference in the test year level of operating revenue deductions concerns amortization. This difference of $18,556 ($26,161 - $7,605) results from Staff witness Desern's adjustment to eliminate amortization of the extraordinary loss on retirement of the old central office

equipment and from the adjustment proposed by the Company during the hearing to amortize the extraordinary service interruption loss, resulting from the fire in August of 1976, over a three-year period.

Company witness Seay, in her prefiled testimony, proposed an adjustment to amortize the extraordinary loss on retirement of the old central office equipment over a 10-year period. As a result of the fire experienced by the Company in August of 1976, the Company has experienced a gain rather than a loss upon retirement. Accordingly, the Commission adopts the Staff's adjustment to eliminate amortization of the extraordinary loss on retirement of the old central office equipment in the amount of $10,350.

With regard to the business interruption loss experienced by the Company as a result of the fire, the Commission calculates the net loss after consideration of salvage and insurance proceeds to be approximately $10,276 and believes that this amount should be amortized to utility operations over a period of three years. Accordingly, the Commission has included $3,425 ($10,276 ÷ 3) in the test year level of expense to reflect amortization of the loss due to business interruption.

Based on the foregoing discussion, the Commission concludes that the proper test year level of amortization expense is $11,030.

The sixth area of difference in the test year level of operating revenue deductions concerns the Staff annualization adjustment. Staff witness Desern proposed an adjustment to annualize operating revenues and operating revenue deductions which were not adjusted to an end-of-period level in other Company and Staff adjustments by means of an annualization factor. Witness Desern testified that the annualization factor was based on the increase in primary stations actually experienced by the Company during the test year.

The Commission recognizes the propriety of annualizing certain items of revenue and cost on an aggregate basis by use of an annualization factor, when it would be impractical if not impossible to adjust such items to an end-of-period level on an item-by-item basis, and accordingly adopts the Staff adjustment of $2,522.

The seventh area of difference in the test year level of operating revenue deductions concerns operating taxes other than income. Company witness Seay testified that the appropriate level of operating taxes was $116,369, while Staff witness Desern testified that the appropriate level was $113,387. This difference results from Staff adjustments to property taxes to reflect the effect of Staff adjustments to the new central office, the central office equipment retired, and use of 1976 property tax values; to gross receipt taxes to reflect Staff adjustments to

revenues; and to FICA taxes to reflect correction of a computational error made by the Company.

With regard to property taxes, Company witness Seay calculated the end-of-period level by adjusting the 1975 Tax Certificate values to reflect her estimate of the original cost of the new central office and the old central office equipment retired and by using the 1976 property tax rates which she obtained by telephone from representatives of the various taxing authorities. Staff witness Desern calculated the end-of-period level of property taxes by adjusting the 1976 Tax Certificate values to reflect the original cost of the new central office, as revised during the hearing, and the old central office equipment retired, and by use of 1976 property tax rates obtained from the tax notices which were available during the Staff's field audit.

The Commission believes the actual property tax rates reflected on 1976 property tax notices are the proper rates to be used in calculating the test year level of property tax expense, and, as discussed previously, the Commission has adopted the Staff's adjustments to reflect the documented construction cost of the new central office and the retirement of the old central office equipment. Accordingly, it is entirely consistent and proper for the Commission to adopt the Staff's adjustment to property taxes in the amount of $4,261, which has been adjusted to include the related effects of the excess telephone plant margin adjustment.

Company witness Seay arrived at the end-of-period level of gross receipt taxes by decreasing the recorded book amount by the gross receipts tax applicable to her adjustments to intrastate revenues, which is the same method employed by Staff witness Desern. The difference arises from the revenue adjustments as proposed by each witness. As previously discussed, the Commission has adopted the revenue adjustments proposed by the Staff; therefore, it is entirely consistent and proper to adopt the related gross receipt tax adjustment in the amount of $1,319, excluding that portion related to directory assistance charges which has been reflected as a reduction in arriving at operating income to be derived from the increase in rates approved herein.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the proper level of operating taxes other than income is $110,780.

The evidence shows that the witnesses are in agreement with regard to the proper levels of traffic expenses, other operating expenses, and interest on customer deposits. The Commission, therefore, concludes that the proper levels are as follows:

Item (a)	Amount (b)
Traffic	$10,114
Other operating expenses	49,120
Interest on customer deposits	329
	$59,563

The eighth area of difference in the test year level of operating revenue deductions concerns income tax expense. Company witness Seay testified that the appropriate level of income tax expense was $(26,015), while Staff witness Desern testified that the appropriate level was ($7,548).

In that 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)	$847,325
2.	Operating revenue deductions:	
3.	Maintenance	214,337
4.	Traffic	10,114
5.	Commercial	13,877
6.	General office salaries and expenses	122,429
7.	Other operating expenses	49,120
8.	Depreciation	225,013
9.	Amortization	11,030
10.	Operating taxes other than income	110,780
11.	Interest on customer deposits	329
12.	Staff annualization adjustment	2,522
13.	Total deductions	759,551
14.	Operating income before income taxes	87,774
15.	Add: Amortization of extraordinary loss	3,272
16.	Amortization of extraordinary business interruption loss	3,425
17.	Deduct: Fixed charges	(120,603)
18.	State taxable income	(26,132)
19.	State tax rate	6%
20.	State income taxes	(1,568)
21.	Federal taxable income	(24,564)
22.	Federal tax rate	20%
23.	Federal income taxes	(4,913)
24.	Total income taxes	$ (6,481)

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

Both Company witness Seay and Staff witness Desern included the unamortized balance of the Job Development Investment Tax Credit (JDC) as cost-free capital in developing the Company's capitalization structure. The Revenue Act of 1971 provided three basic elective options with regard to the rate-making treatment to be accorded this item of cost-free capital. An election was to be made within 90 days after the enactment of the bill; if no option was selected, option No. (1) was to apply. By making no election, Mebane Home Telephone Company, Inc., in effect, selected option No. (1) which provides "that the investment credit is not to be available to a company with respect to any of its public utility property if any part of the credit to which it would otherwise be entitled is flowed through to income; however, in this case the tax benefits derived from the credit may (if the regulatory commission so requires) be used to reduce the rate base, provided that this reduction is restored over the useful life of the property."

The Commission has not followed the practice of deducting cost-free funds directly from the rate base as provided by option (1), but has consistently included cost-free funds in the capital structure at zero cost. The Commission, therefore, concludes that cost-free funds arising from the Job Development Investment Tax Credit should be included in the Company's capital structure at zero cost for purposes of setting rates in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 15, 16, AND 17

The Commission adopts the Company's capital structure of May 31, 1976, as presented by Staff witness Desern.

The Company testified that its test year embedded cost rate for long-term debt was 3.56%. The Commission finds and concludes that the debt embedded cost rate is 3.56%.

Staff witness Currin testified that, in his best judgment, the cost of original cost common equity capital to Mebane Home is 14.75% to 15.75%. Since Mebane Home'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 Mebane Home 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 24 months. In developing the risk premium for Mebane Home, Mr. Currin took into consideration Mebane Home's small equity ratio, yet testified that Mebane Home's affiliation

with REA effectively reduces much of the risk its stockholders would otherwise face. Accordingly, he recommended only a moderate risk premium for Mebane Home.

The Company sought a rate of return of 18.19%, which, after accounting adjustments, was shown by the Staff to actually be 36.7%. There was no supporting testimony.

The Commission notes that Mebane Home's capital structure contains only 10.28% common equity. Theoretically, at least, as the equity ratio declines, the risk to an equity holder increases. Further, Mebane Home'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. The Commission strongly suggests that Mebane Home actively seek new equity capital to support future plant expenditures until such time as Mebane Home's common equity ratio is at least 20%. Accordingly, the Commission concludes that a return of 14.50% on original cost common equity is fair and reasonable.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in Utilities Comm. 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 Mebane Home's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of Mebane Home's capital structure. Considering the current investment markets in which Mebane Home 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 4.40% on the fair value of Mebane Home'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 13.80% on fair value equity, including both book equity and the fair value increment, which is just and reasonable. The actual return on original cost common equity yielded by the rate of return of 4.40% multiplied by the fair value rate base is 14.76%.

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.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The following schedules 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 schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

SCHEDULE I
MEBANE HOME TELEPHONE COMPANY, INC.
DOCKET NO. P-35, SUB 64
TOTAL COMPANY STATEMENT OF INCOME
TWELVE MONTHS ENDED MAY 31, 1976

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Local service	$ 512,499	$151,135	$ 663,634
Toll	299,840		299,840
Miscellaneous	39,350		39,350
Uncollectibles	(4,364)	(1,466)	(5,830)
Total operating revenues	847,325	149,669	996,994

Operating Revenue Deductions			
Maintenance	214,337		214,337
Traffic	10,114		10,114
Commercial	13,877		13,877
Gen. Off. Salaries and expenses	122,429		122,429
Other operating expenses	49,120		49,120
Depreciation	225,013		225,013
Amortization	11,030		11,030
Staff annualization adjustment	2,522		2,522
Operating taxes other than income	110,780	8,980	119,760
Interest on customer deposits	329		329
Income taxes - State and Federal	(6,481)	51,542	45,061
Total operating revenue deductions	753,070	60,522	813,592
Net operating income for return	$ 94,255	$ 89,147	$ 183,402
Investment in Telephone Plant			
Telephone plant in service	$5,030,501		$5,030,501
Less - accumulated depreciation	1,083,907		1,083,907
Net investment in telephone plant in service	3,946,594		3,946,594
Investment in Rural Telephone Bank Class B Stock	118,500		118,500
Allowance for Working Capital			
Materials and supplies	66,771		66,771
Cash	35,386		35,386
Average prepayments	7,587		7,587
Less: Average tax accruals	24,111		24,111
Customer deposits	12,278		12,278
Total allowance for working capital	73,355		73,355
Net investment in telephone plant in service plus investment in Rural Telephone Bank Class B Stock and allowance for working capital	$4,138,449		$4,138,449
Fair value rate base	$4,168,226		$4,168,226
Rate of return on fair value rate base	2.26%		4.40%

SCHEDULE II
MEBANE HOME TELEPHONE COMPANY, INC.
DOCKET NO. P-35, SUB 64
TOTAL COMPANY STATEMENT OF INCOME
TWELVE MONTHS ENDED MAY 31, 1976

	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Operating Income
	Present Rates - Fair Value Rate Base			
Long-term debt	$3,387,734	81.28	3.56	$120,603
Common equity				
Book $425,433				
Fair value increment 29,777	455,210	10.92	(5.79)	(26,348)
Cost-free capital	325,282	7.80		
Total	$4,168,226	100.00		$ 94,255
	Approved Rates - Fair Value Rate Base			
Long-term debt	$3,387,734	81.28	3.56	$120,603
Common equity				
Book $425,433				
Fair value increment 29,777	455,210	10.92	13.80	62,799
Cost-free capital	325,282	7.80		
Total	$4,168,226	100.00		$183,402

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

William R. Hupman, President of Mebane Home Telephone Company, testified regarding the changes proposed in the Applicant's rate schedules. Mr. Hupman proposed an increase in the local coin pay station rate from 10¢ to 20¢. Mr. Hupman requested authority to place into effect directory assistance charging, to eliminate color charges, and to increase nonrecurring charges as the Commission has approved for other companies. Mr. Hupman proposed to increase the ratios between business and key trunk rates to 1.5 and between business and PBX trunk rates to 2.5.

William J. Willis, Jr., Rates and Tariff Engineer 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. Willis noted that the rate ratios recently set by the Commission for other companies could produce large increases in the Applicant's business rates and suggested that smaller rate ratios should

be considered depending on the conclusions concerning revenue requirements made by the Commission in this docket. Mr. Willis suggested an expansion of the key trunk definition to include lines terminating in three-line sets and single-button sets as well as central office lines terminating in key systems. Mr. Willis 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 cost which would keep pace with marketing methods and other changes that may follow from the FCC's equipment registration program.

Mr. Willis supported the Applicant's proposals for an increase in the local coin rate and for the elimination of color telephone charges.

Mr. Willis further recommended a change in the procedure for rating mileage services such as extension line, tie line and local private line service. Mr. Willis proposed that the Company change to a direct airline method of measuring local mileage services.

Mr. Willis also proposed changes in rates for certain miscellaneous items. He stated that he had obtained direct cost information figures from other companies concerning some of these items; as to the others, he stated that they were being offered at rates which are out of line with rates of other companies.

Based on the testimony and exhibits of Mr. Hupman and Mr. Willis, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Mebane Home 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 2.5 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 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 Mebane Home's service charges should be increased to a 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 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 20 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. 20

Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified that directory assistance has become an expensive service to provide and 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 steps are not taken to curb such use. Mr. Chase testified that the cost of rendering directory assistance service, as well as the amount of the service used by each subscriber, can be identified. He stated that a charge for directory assistance is a fair way to reduce usage and to allow those using the service excessively (5 calls per month per subscriber) to pay accordingly since excessive use generally involves only certain types of business and very few residential subscribers. Mr. Chase recommended the approval of the directory assistance charge plan as authorized for Central Telephone Company.

The Applicant offered no testimony concerning directory assistance charges.

Based on the above, the Commission concludes that charging for directory assistance inquiries is 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 ratepayers and is a hindrance to keeping basic charges for telephone 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 will, among other things, 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 $4,315 and increased revenues of $609.

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. This D.A. plan is considered experimental until further Order relating to this service and until a statewide D.A. charge plan is adopted for all regulated telephone companies in North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Mebane Home Telephone Company, Inc., be, and hereby is, authorized to increase its North Carolina local exchange rates and charges to produce additional annual gross revenues not to exceed $151,135 based upon stations and operations as of May 31, 1976, as hereinafter set forth in Appendices A, B, and C.

2. That the rates, charges, and regulations set forth in Appendices A, B, and C attached hereto, which will produce additional gross revenues of approximately $151,135 from said end-of-test period customers, be, and hereby are, approved to be charged and implemented by the Applicant, effective on bills* to be rendered on and after the date of this Order except as noted hereinafter.

*Corrected by Errata Order dated 3-23-77.

3. That the Applicant shall file within seven days from the date of this Order the necessary revised tariffs

reflecting the above changes in rates, charges, and regulations shown in Appendices A and B. Revised tariffs reflecting the provisions in Appendix C shall be filed 30 days prior to the effective date of said provisions.

4. 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.

5. That the Applicant be, and hereby is, authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of the date of this Order and after the NOTICE attached hereto as Appendix D is given to its subscribers as a bill insert or by direct mailing within 15 or more days before directory assistance charges become effective. Further, that the Applicant shall, within 30 days after directory assistance charges become effective, mail as a bill insert the REMINDER, also a part of Appendix D, 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 the Applicant shall place in its telephone directory the information included in Appendix D relating to directory assistance.

6. That the Applicant shall report to the Commission immediately upon restoring to used and useful service of any customer the plant formerly used to serve Dow Badische. Further, that the Applicant shall file with the Chief Clerk of the Commission a calculation of the level of earnings actually achieved during the 12-month period ending with the month immediately preceding the month in which service is restored to the Dow Badische plant, and a pro forma calculation of the level of earnings which the Company expects to achieve, based on the same 12-month period indicated above, including appropriate adjustments to reflect the restoration of service to the Dow Badische plant. Further, that the Applicant shall reflect, in the calculations filed with the Chief Clerk, actual and pro forma rates of return on investment and on common equity and that such calculations shall include copies of all supporting workpapers.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of March, 1977.

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

APPENDIX A
MEBANE HOME TELEPHONE COMPANY, INC.
DOCKET NO. P-35, SUB 64

BASIC LOCAL SERVICE

	Monthly Rate
Residence Individual Line	$ 8.65
Business Individual Line	21.65

OTHER LOCAL SERVICES

Residential Key Trunk	10.80
Business Key Trunk	27.00
PBX Trunk	43.30

DIRECTORY LISTINGS

	Nonrecurring Charge	Monthly Rate
Non-published numbers		$ 1.00

COIN TELEPHONE SERVICE

Local Message Charge	$.20	
Semipublic Guarantee		32.50

Note: For the remainder of Appendix A and Appendices B, C, and D, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-118, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Mid-Carolina Telephone Company for Authority to Increase its Rates and Charges in its Service Area within North Carolina	)	ORDER SETTING RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 9 and 10, 1976, at 10:00 a.m.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding, and Commissioners W. Lester Teal, Jr., and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602

For the Attorney General:

Jesse C. Brake and Richard L. Griffin, Associate Attorneys General, Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Robert F. Page and Dwight W. Allen, Assistant Commission Attorneys, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 30, 1976, Mid-Carolina Telephone Company (hereinafter referred to as Mid-Carolina, the Company or the Applicant) filed an application with this Commission for authority to adjust and increase its rates and charges for customers in its North Carolina service area in the amount of $590,772 in additional annual local service revenues. Mid-Carolina proposed to make the new rates applicable to all bills for local service rendered on and after August 1, 1976. Also on June 30, 1976, the Company prefiled testimony and exhibits of its five witnesses and the rate case information required by the Staff in accordance with the Commission's Order in Docket No. M-100, Sub 58.

On July 20, 1976, the Commission issued an Order setting the matter for investigation and hearing, requiring Mid-Carolina to give notice of the application and hearing to its customers, declaring the test period to be the 12 months ended February 29, 1976, and requiring the Company to submit additional data.

Following publication of the notice of hearing, the Commission received several letters of protest to the proposed increase which were placed in the Commission's official file herein. Thereafter on September 9, 1976, the Attorney General filed Notice of Intervention and the same was recognized by the Commission in an Order issued on September 15, 1976.

On September 23, 1976, in a clarifying Order the Commission specifically declared the pending matter to be a general rate case pursuant to G.S. 62-137 and suspended the proposed rate increase for a period of up to 270 days from and after August 1, 1976, the proposed effective date of the increased rates and charges.

On September 27, 1976, a protest to the proposed increase was filed by the Mayor and City Commissioners of the Town of Denton, on behalf of the Company's subscribers in the Denton exchange. On October 13, 1976, the Commission received a letter of protest from Howell Harrison, acting for the Denton Consumers Committee. Enclosed with the letter was a

petition containing the signatures of approximately 747 residential subscribers and 102 business and commercial subscribers. The purpose of the petition was to oppose the proposed rate increase.

Following the exchange of additional data, testimony and exhibits sponsored by the Commission Staff were prefiled on October 21, 1976. The public hearing in this matter began on November 9, 1976.

The Applicant offered the testimony and exhibits of five witnesses as follows: (1) Philip L. Hamrick, President of Mid-Carolina Telephone Company and North Carolina Division Manager of Mid-Continent Telephone Corporation (Mid-Carolina's parent), testified concerning the origins, makeup and history of Mid-Carolina, the relationship between Mid-Carolina and Mid-Continent, the Service Agreement between Mid-Carolina and Mid-Continent Telephone Service Corporation (another subsidiary of Mid-Continent), the Company's franchised territory and customers, its plant in service and financing, its estimated capital expenditures in the near term future, its needs for rate relief and its proposed rate structure changes; (2) Franklin D. Rowan, Regional Controller for Mid-Continent Telephone Service Corporation, testified concerning test year operations, including original cost of plant in service, depreciation, allowance for working capital, materials and supplies, and test year revenues and expenses and offered 12 schedules in support of his testimony; (3) Robert D. Bonnar, Vice President-Controller of Mid-Continent Telephone Corporation, testified with regard to Mid-Continent's corporate operating structure and subsidiaries, with emphasis placed upon Mid-Carolina's affiliated relationships, particularly the Service Contract between Mid-Carolina and Mid-Continent Telephone Service Corporation; (4) John D. Russell, Executive Vice President of Associated Utility Services, testified concerning his replacement cost appraisal of Mid-Carolina's telephone plant in service; and (5) Joseph F. Brennan, President of Associated Utility Services, testified with regard to the fair rate of return which Mid-Carolina should be allowed the opportunity to earn.

The Commission Staff offered the testimony and exhibits of eight (8) witnesses as follows: (1) Vern W. Chase, Chief Engineer of the Telephone Rate Section, testified concerning his study of directory assistance charges for Mid-Carolina; (2) James S. Compton, Telephone Engineer in the Telephone Service Section, presented information relating to quality of service, central office engineering and reasonableness of the need for plant investment; (3) Gene A. Clemmons, Chief Engineer, Telephone Service Section, North Carolina Utilities Commission, presented his study of comparative prices for purchases made by Mid-Carolina from its affiliated supplier, Buckeye Telephone and Supply Company; (4) Hugh L. Gerringer, Telephone Engineer in the Telephone Rate Section, offered testimony on the status of Mid-Carolina's toll settlements with Southern Bell Telephone and

Telegraph Company and Lexington Telephone Company for the test period and on his determination of the Company's representative toll revenues for the test period; (5) William Dudley, a Staff Acccuntant for the Commission, testified concerning the Company's test-period original cost net investment, revenues, expenses and returns on original cost net investment and common equity under existing and proposed rates; (6) William J. Willis, Rates and Tariff Engineer in the Telephone Rate Section, testified with regard to his evaluation of the structure of the Company's proposed tariffs; (7) Eugene H. Curtis, Operations Analysis Engineer, commented upon his analysis of the Company's replacement cost appraisal and his opinion of the fair value of the Company's plant in service to North Carolina customers; and (8) Edwin A. Rosenberg, Economist in the Operations Analysis Section, testified concerning the cost of capital to Mid-Carolina as it relates to the fair rate of return which the Company should be allowed the opportunity to earn.

Four public witnesses appeared and offered testimony in opposition to the proposed rate increase. The witnesses also voiced criticism of the Company's quality of service and local calling scope. Three of the witnesses, Howell Harrison, Jack Briggs and Robert Carroll, were customers of Mid-Carolina's Denton exchange. The fourth witness, Richard Thurston, was an attorney representing the town boards and subscribers of Mid-Carclina's exchanges in Rockwell and Granite Quarry.

Following the receipt of such testimony and exhibits, briefs and oral arguments were waived by all parties and the record in this docket was closed.

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

FINDINGS OF FACT

1. That Mid-Carolina is a duly franchised public utility providing telephone service to its subscribers in North Carolina 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 of the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That Mid-Carolina was created on May 30, 1974, by the merger of four former operating telephone utilities, i.e., Eastern Rowan Telephone Company, Thermal Belt Telephone Company, Mooresville Telephone Company and Mid-Carolina Telephone Company (formerly Denton Telephone Company).

3. That Mid-Carolina, with headquarters in Matthews, North Carolina, serves approximately 26,940 total stations through six exchanges located in nine counties in North

Carolina and two exchanges located in two counties in South Carolina.

4. That the present proceeding is the first general rate application filed by Mid-Carolina since the merger on May 30, 1974. The predecessor companies of Mid-Carolina were last granted rate increases as follows: (a) Eastern Rowan Telephone Company - August, 1969, (b) Mid-Carolina (formerly Denton) Telephone Company - August, 1969, (c) Thermal Belt Telephone Company - January, 1972, and (d) Mooresville Telephone Company - May, 1973.

5. 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 February 29, 1976.

6. That the annual increase in rates and charges sought by the Applicant is $590,772.

7. That, while the overall quality of service provided by Mid-Carolina to its customers in its North Carolina service areas is adequate, the Commission finds that two aspects of service to customers in the Denton exchange - DDD call completion and DDD transmission noise - are inadequate. However, such inadequacy is not solely caused by or attributable to Mid-Carolina but is also the responsibility of three other interconnecting telephone companies.

8. That there is no excess plant investment, based upon prices paid by Mid-Carolina to its affiliated supplier, reflected from the record in this case.

9. That the original cost of Mid-Carolina's investment in telephone plant used and useful in providing telephone service in North Carolina is $14,620,408. From this amount should be deducted the reasonable accumulated provision for depreciation of $4,069,737, resulting in a reasonable original cost less depreciation of $10,550,671.

10. That the reasonable replacement cost less depreciation of Mid-Carolina's plant used and useful in providing telephone service in North Carolina is $12,496,096.

11. That the fair value of the Company's plant used and useful in providing telephone service in North Carolina should be derived from giving 1/2 weighting to the reasonable original cost less depreciation of $10,550,671 and 1/2 weighting to the replacement cost less depreciation of $12,496,096. By using this method, the Commission finds that the fair value of Mid-Carolina's utility plant devoted to telephone service in North Carolina is $11,523,384.

12. That the reasonable allowance for working capital for Mid-Carolina is $98,809.

13. That the fair value of Mid-Carolina's plant in service to North Carolina customers at the end of the test year is $11,523,384. This fair value includes a reasonable fair value increment of $972,713. The fair value of Mid-Carolina's plant in service of $11,523,384 plus the reasonable allowance for working capital of $98,809 yields a reasonable fair value of Company property used and useful to customers in North Carolina of $11,622,193.

14. That the appropriate level of end-of-test-period toll revenues is $1,311,381.

15. That Mid-Carolina's reasonable operating revenues net of uncollectibles for the test year, after appropriate accounting and pro forma adjustments, under present rates are approximately $3,246,220 and under the Company's proposed rates would have been approximately $3,831,288.

16. That Mid-Carolina's test year expenses or operating revenue deductions, after accounting and pro forma adjustments, including taxes and interest on customer deposits, are approximately $2,598,830 which includes an amount of $720,841 for actual investment currently consumed through reasonable actual depreciation.

17. That the capital structure which is proper for use in this proceeding is the following:

Item (a)	Percent (b)
Long-term debt	41.31%
Short-term debt	6.37%
Common equity	44.91%
Cost-free capital	7.41%
Total	100.00%

18. That, when the excess of the fair value of the Company's property used and useful at the end of the test year over and above the 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	37.85%
Short-term debt	5.84%
Common equity	49.52%
Cost-free capital	6.79%
Total	100.00%

19. That the Company's proper embedded cost of long-term debt is 4.39%. The proper cost of short-term debt is 8.5%.

The fair rate of return which should be applied to the fair value of property (or rate base) is 7.8%. This return on Mid-Carolina's rate base will allow the Company the opportunity to earn a return of 13.7% on common equity and a return of 11.39% on fair value equity after deduction of the embedded cost of debt. Such returns on rate base, common equity and fair value equity are just and reasonable.

20. That Mid-Carolina should be allowed to increase its rates and charges so as to produce $569,497 in additional annual gross revenues in order for the Company to have an opportunity, through efficient management, to earn the rate of return on the fair value of its property which the Commission has found to be reasonable and fair.

21. That the schedule of rates, charges and regulations attached hereto as Appendices A, B, and C of this Order are found to be just and reasonable, and the same should be used by the Company to generate the $569,497 additional annual gross revenue requirement.

22. 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.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 6

The evidence for the foregoing findings is contained in the verified application, the testimony of Company witness Hamrick and previous Commission Orders in this and prior dockets. Such findings are essentially procedural and jurisdictional in nature and were not contested during the presentation of evidence herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this finding is contained in the testimony and exhibits of Company witness Hamrick, the testimony and exhibits of Staff witness Compton and the testimony of public protestant witnesses Harrison, Briggs and Carroll.

Mr. Hamrick, President of Mid-Carolina, stated that the Company was continuously striving to improve service to its customers in all areas. He cited community feedback, low trouble reports and new construction as reasons for his opinion that service was good.

Mr. Compton stated that the results of his tests showed failures by Mid-Carolina to meet Commission objectives in the following areas:

(1) Intraoffice dial failures
(2) EAS transmission loss
(3) DDD transmission loss
(4) Operator answer time
(5) Business office answer time

While the intraoffice dial failures and the EAS transmission loss tests were below Commission objectives, Mr. Compton indicated that his test results showed that the Company was within one-half percentage point of the Commission objective in these areas. The problems experienced with operator answer time resulted from operator services provided by another company and are not caused directly by Applicant's system. Mr. Compton did not find the DDD transmission loss problems in the Denton exchange to be as severe as those testified to by the public witnesses. He stated that he found that the DDD transmission loss problems in Denton had originated beyond Lexington and, thus, such problems were not directly on Mid-Carolina's lines.

The three public witnesses from the Denton exchange (Mr. Harrison, Mr. Briggs and Mr. Carroll) complained of a low toll-free calling scope and difficulties in completion of long-distance calls as well as transmission noise problems with such calls. The other public witness, Mr. Thurston, represented subscribers in Rockwell and Granite Quarry and was opposed to the size of the proposed increase. He stated that subscribers in these areas generally had no complaints with the service being offered.

From the foregoing evidence the Commission concludes that, while the Company should work to improve its intraoffice dial failures, EAS transmission losses and operator and business office answer times, the overall level of service offered by Mid-Carolina to its subscribers in North Carolina is adequate and that no penalty for poor quality service should be imposed upon rate base or rate of return. Based upon the testimony of Mr. Compton and the public witnesses, however, the Commission concludes that service being offered to Denton subscribers is inadequate in two respects - DDD transmission noise and completion of long-distance calls. The Commission realizes that the fault does not lie solely with Mid-Carolina but lies also with three connecting companies - Lexington, Central and North State. The Commission hereby takes note of this problem and concludes that Mid-Carolina, Lexington, Central and North State Telephone companies and the Commission's telephone service engineers should be directed to pursue this problem to its source until the problems in Denton are cleared up.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence in this case relating to the reasonableness of purchases by Mid-Carolina from its affiliated supplier, Buckeye Telephone and Supply Company, consists of the testimony of Company witness Hamrick and Staff witness

Clemmons. Company witness Hamrick stated on cross-examination that Mid-Carolina's policy ordinarily is to purchase from Buckeye. He further stated that Mid-Carolina would have the right to go outside of Buckeye if items were needed on a quicker basis or if there was a significant price difference. The witness further stated on cross-examination that it is not Mid-Carolina's policy to solicit bids from other potential suppliers.

Staff witness Clemmons concluded from his study of the prices paid by Mid-Carolina to Buckeye that there was not clear justification for an adjustment in this rate case. He pointed out that some items purchased from Buckeye were at higher prices than were paid by some other independent telephone companies, but that in considering their purchases overall from Buckeye, the prices paid were competitive. Witness Clemmons pointed out that, with the exception of central office switching equipment, Mid-Carolina now purchases essentially all of its plant from Buckeye.

Based on the evidence of record, the Commission concludes that there is not sufficient justification for an adjustment in this rate case because of unreasonable prices paid by Mid-Carolina on purchases from its affiliated supplier, Buckeye Telephone and Supply Company. However, the Commission emphasizes that the prices paid by regulated operating telephone companies on purchases from affiliated suppliers is an area of concern to the Commission. The Commission will continue to review the reasonableness of the prices paid by Mid-Carolina on its purchases from Buckeye. Appropriate adjustments will be made in future cases if unreasonable prices are found.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Rowan and Staff witness Dudley presented different amounts for telephone plant in service and its associated accumulated depreciation as follows:

Item	Company Witness Rowan	Staff Witness Dudley
Original cost of telephone plant in service	$14,656,650	$14,620,408
Less: Accumulated depreciation	4,054,047	4,069,737
Net original cost of telephone plant in service	$10,602,603	$10,550,671

With respect to the original cost of North Carolina telephone plant in service, the witnesses disagree in the amount of $36,242. Company witness Rowan determined the cost of North Carolina telephone plant in service by the use of two methods. For plant assets with a specifically identifiable North Carolina location, he relied on the total cost appearing in the Company's continuing property records

as being properly allocable to North Carolina plant in service. For the remaining plant assets not specifically identifiable between North and South Carolina locations, Company witness Rowan utilized the ratio (.889) of North Carolina main stations to total main stations as the basic method of allocation between the two states.

Staff witness Dudley concurred with the plant account allocations made by Company witness Rowan, except for the following four plant accounts: organization costs, land, buildings and central office equipment. Company witness Rowan allocated the entire balance ($16,596) in the organization account to North Carolina plant in service. Staff witness Dudley testified that the allocation of organization costs to North Carolina plant in service should be made in accordance with the method used by the Company in allocating plant account balances not specifically identifiable between North and South Carolina. Witness Dudley further testified that the organization costs account balance is composed of costs incurred in merging Mid-Carolina's four predecessor companies and that the merger included the South Carolina portion of the former Thermal Belt Telephone Company. In addition, Company witness Rowan agreed on cross-examination that both South Carolina and North Carolina subscribers are benefiting from the merger consummated in 1974 and that a portion of the organization costs should be allocated to South Carolina. The Commission concludes that a reasonable portion of the organization costs should be allocated to South Carolina plant and that a reasonable basis of allocation is the North Carolina average main station ratio since the costs cannot be specifically identified between the two states. Consequently, the Commission concludes that the adjustment made by Staff witness Dudley to allocate $1,842 of organization costs to South Carolina plant in service is reasonable and that the proper amount of organization costs to be included in North Carolina plant in service is $14,754.

With respect to the cost of land and buildings allocated to North Carolina plant in service, the Company and Staff witnesses disagree in the amounts of $4,620 and $30,025, respectively. Company witness Rowan relied on Mid-Carolina's continuing property records to determine the end-of-test-period account balances for land and buildings physically located in North Carolina, and he determined that these amounts were properly allocable to North Carolina plant in service. Staff witness Dudley agreed that the use of the continuing property records was appropriate for allocation of all land and buildings to North Carolina, except for those physically located at Tryon, North Carolina. Staff witness Dudley testified that the building at Tryon, North Carolina, served both North and South Carolina subscribers in a commercial and administrative capacity, and, consequently, that a portion of the cost of the Tryon building which is dedicated to the service of South Carolina subscribers should be allocated to South Carolina plant in service in order that North Carolina

subscribers not be required tc pay a return on the total cost of a building which is not totally devoted to serving them. The same reasoning is applicable to the cost of land on which the Tryon building is situated. Company witness Rowan agreed on cross-examinatien that the land and building located at Tryon, North Carolina, served both North Carolina and South Carolina customers and that a portion of the cost of the land and building should be allocated to South Carolina.

The Commission concludes that North Carolina subscribers should be required to pay a return only on the cost of property used and useful in serving them and that Staff witness Dudley's adjustment to allocate a portion of the cost of Tryon land and buildings to South Carolina plant is reasonable. Furthermore, the Commission concludes that Staff witness Dudley's adjustment to restore $1,351 to the North Carolina land account balance due to the Company's erroneous recording of a miscellaneous physical property sale during the test period is appropriate. The proper amount of cost of land and buildings allocated to North Carolina plant in service is $40,997 and $468,844, respectively.

The final plant account in which a difference exists between the amounts presented by Company witness Rowan and Staff witness Dudley is central office equipment. Company witness Rowan utilized the end-of-test-period central office equipment balance per the Company's continuing property records as the amount to be allocated to North Carolina plant in service. Staff witness Dudley testified that during his investigation he discovered that the Company's balance in this account as given in the minimum filing requirements was misstated by $245 as compared to the amount contained in the Company's continuing property records. Staff witness Dudley's adjustment simply brings the Company's North Carolina central office equipment balance into agreement with the continuing property records. The proper amount of central office equipment allocable to North Carolina plant in service is $4,073,820.

The Commission concludes that $14,620,408 is the original cost of North Carolina telephone plant in service.

The Company and Staff witnesses disagree on the amount of accumulated depreciation to be deducted in determining the North Carolina net telephone plant in service. Company witness Rowan's deduction of accumulated depreciation is the book end-of-test-period amount of $4,054,047. Staff witness Dudley made three adjustments to this amount to determine his end-of-period accumulated depreciation deduction of $4,069,737. First, Staff witness Dudley reduced the end-of-test-period book balance of the North Carolina accumulated depreciation by $9,109 as a corresponding adjustment to his removal of $30,025 of depreciable plant in service from North Carolina to South Carolina. Since the Commission has previously accepted the adjustment to telephone plant in

service, the Commission concludes that the corresponding reduction of accumulated depreciation by $9,109 is appropriate.

Secondly, Staff witness Dudley reduced accumulated depreciation by $7,830, which resulted from his use of a different factor to allocate depreciation expense to North Carolina. Company witness Rowan allocated total test-period depreciation expense to North Carolina operations on the basis of the ratio (.889) of North Carolina main stations to total main stations. Staff witness Dudley testified that a more reasonable basis of allocating depreciation expense to North Carolina is the use of the North Carolina depreciable plant in service ratio (.879) because depreciation expense is more closely associated with the cost of North Carolina depreciable plant in service as compared to the number of main stations. Company witness Rowan agreed on cross-examination that the use of the depreciable plant ratio would be a better basis upon which to allocate depreciation expense to North Carolina than the use of the main station ratio.

The Commission accepts the depreciable plant in service ratio as the more appropriate allocation basis and accepts Staff witness Dudley's adjustment of $7,830 to test-period depreciation expense and the corresponding adjustment of an equal amount to accumulated depreciation.

The third adjustment made by Staff witness Dudley increases the accumulated depreciation balance by $32,629 to bring it to an end-of-period level following his end-of-period depreciation expense adjustment. Company witness Rowan made an end-of-period depreciation expense adjustment but did not make the corresponding adjustment to accumulated depreciation. Staff witness Dudley testified that, since ratepayers are being asked to pay in rates to cover an additional $32,629 of depreciation expense as if the end-of-test-period plant in service had been in service during the entire test period, the accumulated depreciation balance should be increased as if the end-of-test-period 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 an end-of-period level and not correspondingly increase the accumulated depreciation balance. The Commission, therefore, accepts Staff witness Dudley's upward adjustment of $32,629 to accumulated depreciation. The Commission concludes that the proper deduction for accumulated depreciation is $4,069,737.

The Commission finally concludes that the reasonable cost of Mid-Carolina's net telephone plant in service for use in this proceeding is $10,550,671.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding is contained in the testimony and exhibits of Company witness Russell and Staff

witness Curtis. Company witness Russell, a consultant to Mid-Carolina Telephone Company, testified with respect to his determination of the net trended original cost valuation of Mid-Carolina's North Carolina properties used and useful in furnishing telephone service as of February 29, 1976. Witness Russell calculated his net trended original cost by computing a surviving investment, a reproduction cost new, a replacement cost which corrects plant in service for economies of scale, and a condition percent based on an 8% present worth analysis for calculating accrued depreciation. Witness Russell calculated his replacement cost less depreciation and provided this figure to Company witness Rowan. Witness Rowan added in the working capital to the intrastate portion of the net replacement cost calculated by Russell and called the result Fair Value Rate Base.

Staff witness Curtis agreed with the reproduction cost new and replacement cost as calculated by Company witness Russell. There was a difference of opinion as to the value of depreciation to be deducted from replacement cost. Witness Curtis calculated a condition percent based on book reserve in figuring the accrued depreciation. A comparison of the book reserve, the theoretical reserve, and a 0% interest or present worth factor applied to the Remaining Life method showed comparable results. Witness Curtis contended, and the Commission concurs, that a condition percent related to the book reserve is appropriate for calculating accrued depreciation in this case.

The Commission concludes that the reasonable replacement cost less depreciation of Mid-Carolina's telephone plant in service at February 29, 1976, is $12,496,096.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Having determined that the appropriate original cost of net investment in plant is $10,550,671 and that the reasonable consideration of net replacement cost of such plant is $12,496,096, the Commission must determine the fair value of Mid-Carolina's net plant in service.

The Company, in its calculation of fair value of plant, gave no weighting to the original cost of such plant. Instead, the Company merely took the result of the replacement cost less depreciation study performed by witness Russell, added in the allowance for working capital and called the result its Fair Value Rate Base. G.S. 62-133(e)(1) requires the Commission to ascertain the "fair value of the public utility's property used and useful in providing the service rendered to the public within this State." In making such determination, the Statute requires the Commission to consider, among other things, "the reasonable original cost of the [utility's] property less that portion of the cost which has been consumed by previous use recovered by depreciation expense." The Commission is of the opinion that the Company's calculation of fair value is deficient in that it gives no weight to original cost.

Staff witness Curtis testified that, in his opinion, the replacement cost less depreciation should be weighted by a percentage factor equal to the Company's equity ratio and that the original cost less depreciation should be weighted by a percentage factor equal to the Company's debt ratio. The Commission is not prepared to say 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 is the appropriate method for it to exercise its expert judgment in this important area of ratemaking.

The Commission is of the opinion and thus concludes that a weighting of 50% should be given to both the net original cost and the net replacement cost. By weighting the $10,550,671 and the $12,496,096 by a 50% factor, the fair value of Mid-Carolina's utility plant devoted to intrastate telephone service in North Carolina is $11,523,384.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Rowan and Staff witness Dudley each presented a different amount for the working capital allowance. Both witnesses computed working capital allowances consisting of cash (1/12 of operating expenses excluding depreciation and taxes), end-of-period materials and supplies, and average prepayments, less average tax accruals and end-of-period customer deposits. There are significant differences in the methods of computing several components of the allowance as determined by Company witness Rowan and Staff witness Dudley. Each witness computed the cash component of the working capital allowance by dividing operating expenses (excluding depreciation and taxes) by 12. Company witness Rowan used, for purposes of this computation, expense amounts determined on his Schedule 5, Page 1 of 24, while Staff witness Dudley used expense amounts determined on his Schedule 3. The Commission recognizes that the differences between the expense amounts used by the two witnesses result from adjustments presented by Staff witness Dudley. Under Evidence and Conclusions for Finding of Fact No. 16, the Commission concludes that total operating expenses plus interest on customer deposits are $1,156,697 and the Commission now concludes that 1/12 of this amount, or $96,391, is the proper amount of the cash component of the working capital allowance.

Concerning the total amount of end-of-period materials and supplies, the two witnesses are in agreement. The two witnesses also agree that materials and supplies should be allocated to North Carolina operations on the basis of the ratio of North Carolina plant to total plant. This ratio as determined by Company witness Rowan is .881, while the ratio determined by Staff witness Dudley is .879. The Commission has previously discussed the plant and depreciation reserve adjustments made by Staff witness Dudley which, in effect, allocated a larger amount of telephone plant to South Carolina than that amount allocated to South Carolina plant by Company witness Rowan. Under Evidence and Conclusions

for Finding of Fact No. 9, the Commission adopted witness Dudley's plant in service amount and therefore adopted Staff witness Dudley's computation of the North Carolina plant in service ratio of .879. The Commission therefore concludes that the materials and supplies that should be allocated to North Carolina operations is 87.9% of the total amount and that the proper amount of materials and supplies to be used in the computation of the working capital allowance is $127,986.

Although the difference between the average prepayments component of the working capital allowance as presented by the two witnesses is only $204, the methods used by each witness in determining average prepayments applicable to North Carolina are different. First, Company witness Rowan computed a total Company 13-month average prepayment amount using the monthly balances in the following accounts: prepaid South Carolina license fee, prepaid directory expense, prepaid rate case costs and prepaid office supplies. The total Company average balance of these accounts was then multiplied by the North Carolina average main station ratio to determine the amount of average prepayments allocable to North Carolina. Staff witness Dudley testified that the prepaid accounts should be allocated to North Carolina on the same basis as the associated expense account balances, where feasible. Staff witness Dudley's calculation of average prepayments excludes the prepaid South Carolina license fee balance (since he allocated no amount of South Carolina license fee expense to North Carolina operations), but includes prepaid directory expense balances at 94.8% of the total amount (same % as the associated North Carolina directory revenue is to total directory revenue). Staff witness Dudley's calculation also includes prepaid rate case expense and prepaid office supplies at 88.9% of the total amount (the associated amortization of rate case expense and office supplies expense were allocated to North Carolina operations at 88.9% of the total). The Commission concludes that Staff witness Dudley's computation of average prepayments is consistent with the treatment of the related expense accounts and, therefore, more properly represents the average prepayments amount allocable to North Carolina operations as compared to Company witness Rowan's allocation. The Commission concludes that the appropriate amount of average prepayments to be used in the computation of the North Carolina working capital allowance is $35,228.

In the computation of the amount of average accrued taxes to be used in the determination of the North Carolina working capital allowance, each witness utilized essentially the same methodology as he used in the computation of average prepayments. Company witness Rowan again used the North Carolina average main station ratio (.889) as a basis for allocation of total accrued taxes to North Carolina operations. Staff witness Dudley allocated the accrued tax balances to North Carolina as follows: State and Federal income taxes - 88.4% of total Company income taxes, property

taxes - 87.9% of total Company property taxes, payroll taxes - 88.9% of total Company payroll taxes, gross receipts taxes - 100% of total Company amount since gross receipts tax is applicable entirely to North Carolina operations. As in the preceding discussion regarding average prepayments, the Commission finds that Staff witness Dudley's calculation of the amount of average tax accruals more closely represents the tax accrual amount applicable to North Carolina operations due to its consistency with the allocation of the associated tax expense account balances. The Commission concludes, therefore, that the appropriate average tax accrual balance to be used in the computation of the working capital allowance is $150,750.

With respect to the amount of customer deposits, the final component of the working capital allowance, the two witnesses are in agreement that $10,046 of total customer deposits should be allocated to North Carolina. Since the total amount of customer deposits could not be specifically identified between North Carolina and South Carolina subscribers, both the Company and the Staff used the North Carolina average main station ratio (.889) as a basis for allocation of total customer deposits to North Carolina. The Commission finds that this approach is reasonable and therefore concludes that $10,046 is the proper amount of customer deposits allocable to North Carolina.

The Commission concludes that, consistent with other recent rate case decisions, the formula method of determining the working capital allowance should be used in this case. The Commission has examined all components of the working capital allowance and has made its determination regarding the proper amount of each component as stated in the preceding paragraphs. The Commission concludes that the proper allowance for working capital to be used in this proceeding is $98,809.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence for this finding is contained in Findings of Fact Nos. 11 and 12. The addition of the reasonable allowance for working capital of $98,809 to the fair value of Mid-Carolina's plant in service to North Carolina customers at the end of the test year of $11,523,384 yields a reasonable fair value of Company property used and useful to customers in North Carolina of $11,622,193. Such fair value includes a reasonable fair value increment of $972,713 ($11,523,384 - $10,550,671).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding comes from the testimony and exhibits of Company witness Rowan and Staff witness Gerringer. Cost separations studies ordinarily are based on the procedure outlined in the FCC-NARUC Separations Manual and are required annually for telephone companies making toll settlements with Southern Bell on an actual cost basis.

The Commission has accepted the results of these studies in the determination of net investment, revenues and expenses for intrastate ratemaking.

Mid-Carolina does not prepare cost separations studies because its toll settlements with Southern Bell and Lexington Telephone Company are conducted on a standard contract basis. Therefore, to require Mid-Carolina to prepare a cost separations study for use in this proceeding would cause the Company to incur additional expense which would be borne by Mid-Carolina's ratepayers. Thus, the Commission concludes that it is advantageous to the ratepayers for Mid-Carolina's rate case proceeding to be decided on the basis of total interstate-intrastate net investment, revenues and expenses.

Company witness Rowan in his prefiled direct testimony showed an amount of $1,308,493 for booked toll revenues for the test period for North Carolina operations prior to pro forma going level adjustments. After reviewing monthly toll settlement summary forms and other Company work papers, Staff witness Gerringer determined that a comparable level of test-period toll revenues was $1,287,664. Witness Gerringer explained that the difference of $20,829 between the two amounts was due to the fact that the Company had not made proper accounting adjustments to exclude a portion of some toll settlement adjustments which were received and booked during the test period, but which applied to a period prior to the test period. These out of test-period adjustments were related to the merger, effective June 1, 1974, of Thermal Belt Telephone Company, Mooresville Telephone Company, Eastern Rowan Telephone Company and Mid-Carolina Telephone Company (formerly Denton Telephone Company) into the present Mid-Carolina Telephone Company entity.

Company witness Rowan showed a pro forma increase of $22,153 in order to bring test-period toll revenues to end of period. This adjustment included proforming the effects of increases in both interstate and intrastate toll rates. Staff witness Gerringer, using the same approach used by the Company, showed a comparable adjustment amount of $23,717 which corrected a mathematical error made by the Company. Therefore, the Staff's recommended representative level of end-of-test-period toll revenues is $1,311,381, and the Commission concludes that this amount is proper.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Company witness Rowan, Staff witness Gerringer, and Staff witness Dudley presented testimony concerning the appropriate level of operating revenues. Staff witness Gerringer, as noted in the preceding Finding of Fact, offered testimony concerning Mid-Carolina's toll settlements with Southern Bell Telephone and Telegraph Company and with Lexington Telephone Company. He also testified on the Company's representative test-period toll revenues and the

appropriate level of end-of-period intrastate and interstate toll revenues. The end-of-period toll revenue amount determined by Staff witness Gerringer was used by Staff witness Dudley in his testimony and exhibit. Company witness Rowan and Staff witness Dudley each testified on the appropriate level of operating revenues after accounting and pro forma adjustments.

The following tabular summary shows the amounts recommended by each witness:

Item	Company Witness Rowan	Staff Witness Dudley
Local Service Revenues	$1,792,387	$1,820,119
Toll Service Revenues	1,330,646	1,311,381
Miscellaneous Revenues	158,504	158,504
Uncollectibles	(43,763)	(43,784)
Total	$3,237,774	$3,246,220

Both witnesses agree on the amount of miscellaneous revenues. The Commission concludes that the proper amount of test-period miscellaneous revenues is $158,504.

The first area of difference between the two witnesses is the proper amount of end-of-period local service revenues. Staff witness Dudley testified that there are three components which comprise the difference between his and Company witness Rowan's end-of-period local service revenues. First, Staff witness Dudley testified that Mid-Carolina made a $60 computational error on the worksheets prepared to support the amount of end-of-period local service revenues. The Commission concludes that the adjustment made by Staff witness Dudley to restore this $60 to end-of-period local service revenues is appropriate.

Secondly, Staff witness Dudley testified that revenues from installation and service charges, pay station revenues, and other local service revenues were assigned to North Carolina operations by the Company in its end-of-period adjustment on a percentage basis which was different from that percentage actually experienced by the Company during the test period. Company witness Rowan allocated each of these revenues to North Carolina operations on the basis of the ratio (.889) of North Carolina main stations to total Company main stations. Staff witness Dudley testified that the use of the average main station ratio is inappropriate because the only appropriate ratio to use in allocating these total Company revenues to North Carolina operations on an end-of-period basis is that ratio (.878) which was experienced during the test period. The Commission agrees that it would be inconsistent to allocate these local service revenues on an end-of-period basis which was different from that experienced during the test period; therefore, the Commission concludes that Staff witness Dudley's adjustments to reduce installation and service

charges, pay station and other local service revenues by $844, $266, and $97, respectively, are appropriate.

The third item of disagreement regarding end-of-period local service revenues concerns zone charge revenues. During the test period and at the present time, Mid-Carolina bills and receives zone charge revenues from its subscribers. Company witness Rowan contended that it would be inappropriate to include an end-of-period zone charge revenue amount in the determination of end-of-period local service revenues because Mid-Carolina proposes in this proceeding to eliminate zone charges. Staff witness Dudley contended that the $28,839 end-of-period zone charge revenue must be included in the computation of end-of-period local service revenues because the zone charge revenues were in effect during the test period and to exclude this amount would actually understate end-of-test-period local service revenues by $28,839, regardless of the Company's proposal for elimination of these revenues during this proceeding. The Commission recognizes that the proposed elimination of zone charges is included in Mid-Carolina's application but concurs on the merits of the argument set forth by Staff witness Dudley concerning the accurate statement of the amount of end-of-period local service revenues. The Commission concludes that Staff witness Dudley's adjustment to include end-of-period zone charges of $28,839 in end-of-period local service revenues is proper. The Commission further concludes that the proper amount of local service revenues to be used in this proceeding is $1,820,119.

The Company and Staff witnesses also disagree on the amount of toll revenues. Staff witness Dudley testified that he included in his testimony and exhibits certain toll revenue adjustments which were determined by Staff witness Gerringer as a result of his examination of both Mid-Carolina's test period and end-of-period level of interstate and intrastate toll revenues.

Staff witness Gerringer testified that Mid-Carolina included, in test-period toll revenues, toll settlement amounts received during the test period which were applicable to a period prior to the test period. The retroactive toll settlements resulted primarily from converting the former Thermal Belt Telephone Company (one of the four Mid-Carolina predecessor companies involved in the 1974 merger) from an actual cost settlement basis to a standard contract toll settlement basis. With this conversion, all of the predecessor telephone companies (now Mid-Carolina Telephone Company) conduct toll settlements on the standard contract basis. As a result of recording these one-time retroactive toll settlements in test-period toll revenues, test-period toll revenues were overstated by $20,829. The Commission recognizes that the inclusion of toll revenues applicable to a period prior to the test period would be improper. The Commission, therefore, concludes that the adjustment determined by Staff witness Gerringer and utilized by Staff witness Dudley in his

testimony and exhibit which reduced test-period toll revenues by $20,829 is proper.

Staff witness Gerringer also investigated the intrastate and interstate toll revenue adjustments proposed by Company witness Rowan in his testimony and exhibit. These adjustments were made to reflect the effects of the intrastate toll rate increase effective July 1, 1975, and the interstate toll rate increase effective February 29, 1976. Staff witness Gerringer testified that he accepted the methodology used by the Company in computing these adjustments to arrive at a representative toll revenue level; however, he also testified that the Company made a mathematical error in computing the interstate toll revenue increase. Staff witness Gerringer determined that the Company understated its interstate toll revenue increase by $1,564. The Commission concludes that, due to the mathematical error, the Company understated its interstate toll revenue adjustment by $1,564 and that the $1,564 upward adjustment to interstate toll revenues made by Staff witness Dudley in his exhibit and testimony is proper.

The Commission concludes, upon examination of the evidence presented, that adjustments increasing the Company's toll revenues by $1,564 and reducing the Company's toll revenues by $20,829 and thus producing a net reduction of test-period toll revenues by $19,265 are necessary to determine the proper amount of toll revenues for use in this proceeding. The Commission accepts the $19,265 adjustment made by Staff witness Dudley in his exhibit and testimony which produces end-of-period toll revenues of $1,311,381. See Evidence and Conclusions for Finding of Fact No. 14, supra.

The final area of disagreement between the Company and Staff witnesses in the determination of test-period gross revenues less uncollectibles is in the proper amount of uncollectibles. Company witness Rowan did not propose an adjustment to bring uncollectibles to an end-of-period level while Staff witness Dudley did propose a $21 end-of-period uncollectibles adjustment. Staff witness Dudley testified that, due to adjustments to local service and toll revenues, there was a $2,140 net revenue increase at the end-of-period level to which the uncollectibles rate should be multiplied to place both revenues and the associated uncollectibles on an end-of-period basis. Staff witness Dudley also testified that the revised uncollectibles rate of .965588% should be used in this computation due to the Company's recent change (which was not in effect during the test period) in the accounting procedure regarding uncollectible revenues. The Company instituted this change to more accurately state both revenues and uncollectibles and Staff witness Dudley testified that the revised uncollectibles rate which results from this change in acccunting procedure should be used in computing this adjustment.

The Commission concludes that consistency dictates that both revenues and uncollectibles be stated on an end-of-

period basis for use in this proceeding and that to accomplish this objective an end-of-period uncollectibles adjustment should be made. The Commission further concludes that the more accurate, revised uncollectibles rate of .965588% should be used in computing this adjustment and that the proper amount of this adjustment is $2| as computed by Staff witness Dudley. The Commission, therefore, concludes that the proper level of test year uncollectibles is $43,784 and that the proper level of test year operating revenues net of uncollectibles is $3,246,220.

The Company seeks increased rates which would produce $590,772 in additional annual gross revenues. When uncollectibles at the rate of .965588%, herein approved as proper, are deducted from the amount of increase sought by the Company, the resulting increase would be $585,068 under proposed rates. This amount together with the $3,246,220 earlier approved as the proper level of test year operating revenues produces a total of $3,83|,288. Therefore, the Commission concludes that the Company's reasonable level of test year operating revenues, net of uncollectibles, would have been $3,83|,288 had the proposed rates been in effect during the test year.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. |6

Company witness Rowan and Staff witness Dudley 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 Mid-Carolina Telephone Company's rates in this proceeding.

The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Rowan	Staff Witness Dudley
Operating expenses	$|,|99,835	$|,|78,06|
Depreciation	72|,769	720,84|.
Taxes - other than income	342,945	353,462
Income taxes - state and federal	34|,|36	339,382
Interest on customer deposits	-	603
Total operating revenue deductions	$2,605,685	$2,592,349

The first item of difference in the operating revenue deductions shown above concerns operating expenses. Company witness Rowan testified that the appropriate level of operating expenses is $|,|99,835, while Staff witness Dudley testified that the appropriate level is $|,|78,06|, or a difference of $2|,774. The $2|,774 difference is comprised of the following adjustments made by Staff witness Dudley:

1.	Adjustment to reduce the Company's wage increase adjustment as follows:		
	Maintenance	$(6,684)	
	Commercial	(2,133)	
	General Office	(1,638)	$(10,455)
2.	Adjustment to reduce the Company's traffic expenses		(4,453)
3.	Adjustment to increase the Company's directory expense		2,697
4.	Adjustment to increase the Company's postage adjustment		38
5.	Adjustment to restore an out-of-period credit to general office expenses		3,556
6.	Adjustment to eliminate payments to community service clubs		(211)
7.	Adjustment to increase pole rental expense		2,556
8.	Adjustment to reduce audit fees expense		(15,502)
	Total amount of adjustments		$(21,774)

The Commission will now discuss each of the preceding adjustments comprising the $21,774 difference in operating expenses.

The first difference listed above concerns the end-of-period wage increase proposed by Company witness Rowan and the amount of this wage increase properly allocable to North Carolina operations.

Staff witness Dudley testified that, during his examination of the Company's worksheet supporting the wage adjustment, he discovered a computational error which had the effect of overstating the Company's proposed wage increase by $2,000. In addition, Staff witness Dudley testified that the entire amount of the proposed wage increase had been allocated to North Carolina operations by Company witness Rowan in his prefiled exhibit. Mr. Dudley testified further that his adjustment was necessary in order to properly state the amount of the total wage increase and to properly state the amount of the wage increase applicable to North Carolina operations. Staff witness Dudley testified that, of the $78,172 wage increase allocated to North Carolina operations by the Company, only $67,717 is proper and that a downward adjustment of $10,455 is required.

The Commission concludes that the Company's proposed adjustment for the wage increase should be reduced by the $2,000 computational error. The Commission further concludes that Staff witness Dudley's adjustment of $10,455 is proper because it would be inconsistent to allocate the entire amount of the wage increase to North Carolina operations since actual wage expense was allocated to North Carolina operations during the test period at 88.9% of the total wages.

The second adjustment listed above concerns an adjustment to traffic expenses made by witness Dudley. Staff witness Dudley testified that Mid-Carolina has an operator service agreement with Lexington Telephone Company by which Lexington provides operator services to Mid-Carolina. During the test period, Mid-Carolina paid Lexington $4,788 which was applicable to operator services rendered during 1973 and 1974 and therefore was outside the test period used in this proceeding. The regular monthly payments to Lexington resumed during 1975; however, Mid-Carolina recorded 13 months of traffic expense during the 12-month test period and consequently overstated test-period traffic expense by one month's service agreement amount in addition to the out-of-test-period amount described above. The total test-period overstatement of traffic expense was $5,009, and the amount applicable to North Carolina operations was $4,453. The correct amount of such expense applicable to North Carolina is 88.9% of the total amount, based on the same percentage used by the Company during the test period.

The Commission concludes that it would be inappropriate to include in test-period traffic expense amounts which were not incurred during the test period. To include these out-of-test-period expense amounts would violate the objective of matching the revenues generated with the expenses incurred during the test period. The Commission concludes, therefore, that Staff witness Dudley's adjustment to reduce Mid-Carolina's test-period traffic expense by $4,453 is proper.

There is an additional adjustment decreasing traffic expense which should be made. Under Evidence and Conclusions for Finding of Fact No. 22, the Commission concludes that Staff witness Chase's adjustment reducing traffic expense by $24,710 due to the implementation of a directory assistance charge is proper. The Commission concludes that this adjustment totaling $24,710, of which $21,967 is applicable to North Carolina, is proper because the actual expense savings will be experienced when rates are established in this proceeding.

The Commission concludes, therefore, that adjustments reducing Mid-Carolina's test-period traffic expense by $26,420 ($4,453 plus $21,967) are proper.

The third adjustment listed above concerns an adjustment to directory expenses. Staff witness Dudley testified that

he made an adjustment increasing commercial expense by $2,697 to correctly match directory expenses with the associated directory revenues. Staff witness Dudley contended that, since directory revenues applicable to North Carolina operations were 94.8% of the total Company test-period directory revenues, then test-period directory expense should also be assigned to North Carolina operations on that basis. Mr. Dudley pointed out that Company witness Rowan had mismatched directory revenue and directory expense by assigning them to North Carolina operations on the basis of 94.8% and 88.9%, respectively. The Commission recognizes that Company witness Rowan relied exclusively on the North Carolina average main station ratio (.889) as a basis for allocation of total Company expenses to North Carolina operations. The Commission also recognizes that it is appropriate to use some other allocation basis where the use of that allocation basis results in a more accurate assignment of expenses to North Carolina operations. Directory expense is such a case; that is, directory expense can be directly associated with directory revenue, and their basis of allocation to North Carolina should be the same.

The Commission concludes that the assignment of directory expense to North Carolina operations should be on a basis consistent with that of the assignment of directory revenues, or 94.8% of the total Company amount. This basis provides a better matching of revenues and expenses than the allocation method used by Mr. Rowan. The Commission concludes, therefore, that the $2,697 adjustment made by Staff witness Dudley is proper.

The fourth adjustment listed above concerns the amount of the postage adjustment which was proposed by Company witness Rowan due to the $.03 per ounce first class postage increase that became effective on January 1, 1976. To determine his postage increase, Company witness Rowan multiplied the $.03 increase by the 10 months of the test period during which the increase was not in effect, by the number of end-of-period North Carolina main stations. Staff witness Dudley testified that a better determinant of postage usage would be the number of end-of-period primary phones less pay stations, or 16,046, as compared to Mr. Rowan's main station count of 15,920. Staff witness Dudley has proposed a $38 upward adjustment to Company witness Rowan's postage adjustment.

The Commission is of the opinion that Staff witness Dudley's computation of the postage adjustment more closely represents the postage expense increase which will be incurred on an ongoing basis by Mid-Carolina, and, therefore, the Commission concludes that Staff witness Dudley's adjustment of $38 is proper.

The fifth adjustment listed above concerns Staff witness Dudley's adjustment increasing general office salaries and expenses by $3,556. Staff witness Dudley testified that Mid-Carolina included in the expense section of its minimum

filing requirements an expense account with a credit balance. An investigation of this account revealed that Mid-Carolina, during the test period, had systematically written off a liability balance which had originated in a period prior to the test period. The debits to the liability account were accompanied by credits to an expense account which resulted in a credit balance in an expense account which normally has a debit balance. Staff witness Dudley testified that, as a result of following this accounting treatment, the Company understated its representative level of test-period expenses and that his adjustment of $3,556 restores general office salaries and expenses to a proper representative level.

The Commission concludes that the Company's accounting treatment of this item reduced its test-period general office salaries and expenses below a representative level which the Company can be expected to experience in the future and that Staff witness Dudley's adjustment of $3,556 increasing the Company's test-period general office salaries and expenses is proper.

The sixth adjustment listed above concerns Staff witness Dudley's adjustment to eliminate $211 of payments to community service clubs from allowable operating expenses. Staff witness Dudley testified that the expenditures were not related to the provision of telephone service to subscribers and, therefore, should not be included in test-period operating expenses.

The Commission concludes that the payments to community service organizations are not necessary operating expenses for the purpose of providing telephone service and that to include these expenditures in test-period operating expenses would be to require subscribers to make involuntary payments (through payment of rates) to private or charitable organizations selected by Mid-Carolina Telephone Company. The Commission concludes that Staff witness Dudley's adjustment of $211 to eliminate these expenditures from operating expenses is proper.

The seventh adjustment listed above concerns an adjustment made by Staff witness Dudley to increase test-period pole rental expense by $2,556. Staff witness Dudley testified that Mid-Carolina makes annual pole rental payments to Duke Power Company and to Rutherford Electric Membership Corporation. During the test year Mid-Carolina recorded $33,300 as accrued pole rental expense. Staff witness Dudley compared the total accrued amount to the most recent annual pole rental expense payments and discovered that Mid-Carolina had underaccrued pole rental expense applicable to North Carolina operations by $2,556. Since the pole rental payments are annually recurring expenditures and since the Company had underaccrued the amount of this expense, Staff witness Dudley proposed this adjustment in order that other operating expenses for the test period reflect the actual level of pole rental expense incurred.

The Commission concludes that test-period pole rental expenses should be increased by $2,556 to accurately reflect the level of pole rental expense actually experienced by Mid-Carolina during the test period.

The final adjustment listed above concerns an adjustment made by Staff witness Dudley to decrease operating expenses by $15,502 due to the Company's overaccrual of test-period audit fees. Staff witness Dudley testified that Mid-Carolina accrued $30,650 in audit fees for the test year and that this accrued amount was $17,438 larger than the actual independent auditor's fee rendered for the reporting year ending December 31, 1975. Staff witness Dudley stated that although the amount of 1976 audit fees is not determinable at this time, he concluded that the 1975 audit fees should be representative of the level which will actually be incurred in 1976. He cited as support for this statement the fact that audit fees in 1975 were less than the amount of audit fees incurred by the Company in 1974 and the fact that service corporation personnel are attempting to perform more audit related tasks "in-house" for the purpose of reducing the independent auditor's fees.

The Commission concludes, based on the evidence described above, that test-period audit fees were overstated by the Company. To determine the amount of overstatement, the Commission relies on the most recent objective evidence available, which is the actual 1975 audit expense. The Commission concludes that the Company has overstated test-period audit expenses on a total Company basis by $17,438, of which $15,502 is applicable to North Carolina operations and that Staff witness Dudley's reduction of audit fees is proper.

The Commission concludes that the level of expenses charged to construction applicable to North Carolina operations, upon which there is no disagreement between the two witnesses, is $60,788 and further concludes that the proper amount of operating expenses to be used in this proceeding is $1,156,094, consisting of maintenance expenses of $445,501, traffic expenses of $27,218, commercial expenses of $199,783, general office salaries and expenses of $299,578, other operating expenses of $244,802 and expenses charged to construction of $(60,788).

The second component of operating revenue deductions on which the two witnesses disagree is the proper level of depreciation expense. Company witness Rowan presented an amount of $721,769, while Staff witness Dudley presented an amount of $720,841 as depreciation expense. The difference between the amounts as presented by the witnesses results from two adjustments proposed by Staff witness Dudley.

Staff witness Dudley testified that the purpose of his first adjustment of $7,830 was to properly allocate test-period depreciation expense to North Carolina operations. Company witness Rowan used the ratio (.889) of North

Carolina main stations to total main stations as the basis for making this allocation. Staff witness Dudley contended that depreciation expense is a function of depreciable plant in service and that the accurate allocation of this expense to North Carolina operations should be based on a ratio (.879) of North Carolina depreciable plant in service to total depreciable plant in service. Staff witness Dudley developed a North Carolina plant in service ratio in conjunction with his determination of the amounts of North and South Carolina plants and has used this ratio in the computation of his test-period depreciation expense adjustment. The $7,830 downward adjustment to depreciation expense applicable to North Carolina depreciation expense was calculated as the difference between 88.9% of total test-period depreciation expense and 87.9% of total test-period depreciation expense.

Based on the testimony presented above, the Commission concludes that test-period depreciation expense applicable to North Carolina operations is more accurately determined by a computation based on depreciable plant amounts (and therefore using a depreciable plant in service ratio) than on a computation using the main station ratio. On cross-examination, Company witness Rowan agreed that the amount of North Carolina depreciation expense was more closely associated with the depreciable plant in service ratio as contrasted with the main station ratio which he used in his testimony and exhibit. Under Evidence and Conclusions for Finding of Fact No. 9, the Commission has previously discussed Staff witness Dudley's computation of the proper amount of North Carolina telephone plant and has concluded that the correct North Carolina plant in service ratio is .879. The Commission also concludes that the correct North Carolina depreciable plant in service ratio is .879 and that Staff witness Dudley's adjustment reducing test-period depreciation expense by $7,830 is proper.

The second adjustment made by Staff witness Dudley which caused a difference between depreciation expense as presented by the two witnesses involves the end-of-period depreciation adjustment. Both witnesses proposed an end-of-period depreciation expense adjustment to reflect depreciation on the end-of-test-period plant in service as if that plant had been in service and, therefore, depreciated for the entire year. Company witness Rowan included an end-of-period depreciation adjustment of $25,727 while Staff witness Dudley proposed an adjustment of $32,629, a difference of $6,902. Staff witness Dudley's end-of-period depreciation expense adjustment was $6,902 larger than Company witness Rowan's for the following reasons:

(1) The reallocation of depreciable plant account balances between the two states which was made by Staff witness Dudley and not made by Company witness Rowan, and

(2) The inclusion of depreciation expense on end-of-period vehicles and work equipment made by Staff witness Dudley and excluded by Company witness Rowan in his adjustment.

The Commission has previously found that the adjustments made by Staff witness Dudley to reallocate certain plant amounts between the two states are proper; therefore, the Commission concludes that witness Dudley's adjustment to depreciation expense resulting from reallocation of plant between North Carolina and South Carolina is proper.

The Commission also recognizes that Company witness Rowan excluded the depreciation applicable to vehicles and work equipment from his calculation of end-of-period depreciation expense. Although all depreciation on vehicles and work equipment is charged to clearing accounts, a portion of this total amount is ultimately included in expense accounts, and the remaining portion is capitalized. To omit the portion of vehicle and work equipment depreciation which is expensed from the end-of-period depreciation adjustment computation would be to understate the end-of-period depreciation expense; therefore, the Commission concludes that, to properly state end-of-period depreciation expense, the depreciation applicable to vehicles and work equipment must be included. The Commission concludes that Staff witness Dudley's end-of-period depreciation expense adjustment increasing Company witness Rowan's adjustment by $6,902 is proper. The Commission further concludes, upon examination of the evidence presented, that the proper level of depreciation expense to be used in this proceeding as an operating revenue deduction is $720,841.

The third operating revenue deduction upon which the two witnesses disagree is taxes - other than income. The amount presented by Company witness Rowan of $342,945 is $10,517 less than the amount of $353,462 presented by Staff witness Dudley. The $10,517 difference results from the following adjustments proposed by Staff witness Dudley:

(1)	Adjustment to reduce test period payroll taxes	$ (141)
(2)	Adjustment to reduce FICA tax on wage adjustment	(418)
(3)	Adjustment to increase end-of-period gross receipts tax	460
(4)	Adjustment to increase test-period gross receipts tax	13,885
(5)	Adjustment to remove South Carolina license fee	(1,622)
(6)	Adjustment to reduce property tax expense	(1,647)
	Total	$10,517

Staff witness Dudley testified that during his fieldwork investigation, he compared the amount of payroll taxes (FICA, Federal Unemployment, State Unemployment) included in this filing with the amounts included on the payroll tax returns and found that Mid-Carolina had overstated its payroll tax expense applicable to North Carolina operations by $141. Mr. Dudley's adjustment reduces the payroll tax expense to the amount actually incurred during the test period. The Commission concludes that the amount of payroll tax expense included in taxes other than income for use in this proceeding should be limited to the amount actually incurred during the test period and, therefore, the adjustment proposed by Staff witness Dudley is proper.

The next adjustment proposed by Staff witness Dudley reduces the FICA tax on the pro forma wage adjustment by $418 and results from witness Rowan's wage overstatement error and his allocation of the entire amount of the wage increase to North Carolina operations. The Commission has previously discussed this item and concluded that Staff witness Dudley's adjustments reducing the wage increases proposed by Company witness Rowan were proper. The Commission further concludes that it would be inconsistent to reduce the amount of the wage increase and not reduce the FICA tax associated with this wage increase by an appropriate amount; therefore, the Commission concludes that Staff witness Dudley's adjustment reducing FICA taxes by $418 is proper.

The third adjustment made by Staff witness Dudley to taxes other than income concerns the end-of-period gross receipts tax. Both Company witness Rowan and Staff witness Dudley proposed an end-of-period gross receipts tax adjustment resulting from their adjustments to end-of-period local service and intrastate toll service revenues. The Commission has previously accepted the revenue adjustments of Staff witnesses Gerringer and Dudley and concludes that

these adjusted revenue amounts are appropriate for use in determining the amount of end-of-period gross receipts tax adjustment. Upon examination of the facts presented, the Commission concludes that Staff witness Dudley's gross receipts tax adjustment of $460 is proper.

The fourth adjustment to taxes other than income proposed by Staff witness Dudley concerns the amount of test-period gross receipts tax applicable to North Carolina operations. Company witness Rowan allocated 88.9% of the total test-period amount of gross receipts tax to North Carolina operations. Staff witness Dudley testified that he examined the gross receipts tax returns for the calendar quarters covered by Mid-Carolina's test year and computed the amount of gross receipts taxes which were applicable to the test period. Mr. Dudley further testified that the total amount of gross receipts taxes incurred during the test period should be allocated to North Carolina operations since the tax is applicable only to North Carolina intrastate revenues. Mr. Dudley testified that $175,727 is the correct gross receipts tax amount for the test period and proposed a $13,885 adjustment increasing gross receipts taxes. The Commission recognizes that the majority of expenses cannot be specifically identified between the two states' operations; however, when a particular expense can be so specifically identified, that expense amount should be included in its entirety in the operating results for that state. The gross receipts tax can be so identified with North Carolina operations; therefore, the Commission concludes that Staff witness Dudley's adjustment to allocate the total amount of test-period gross receipts tax to North Carolina operations is proper.

The fifth adjustment proposed by Staff witness Dudley to taxes other than income concerns a tax which can be specifically identified with South Carolina operations. Company witness Rowan allocated 88.9% of the South Carolina license fee expense to North Carolina operations and Staff witness Dudley's proposed adjustment removes $1,622 of this amount from North Carolina taxes other than income. The Commission concludes, consistent with its previous conclusion regarding the gross receipts tax, that Staff witness Dudley's adjustment is proper since the South Carolina license fee expense is applicable only to South Carolina operations.

The final adjustment proposed by Staff witness Dudley concerns the amount of test-period property tax expense which should be allocated to North Carolina operations. Company witness Rowan relied on the ratio (.889) of North Carolina main stations to total Company main stations to determine North Carolina property tax expense. Staff witness Dudley testified that the amount of property tax expense related to North Carolina operations was more closely associated to a ratio (.879) of North Carolina taxable plant in service to total Company taxable plant in service than to a ratio of North Carolina main stations to

total main stations. Staff witness Dudley prepared his adjustment reducing property tax expense by $1,647 using a ratio of .879 to determine the amount of property taxes allocable to North Carolina operations. The Commission has previously discussed and concluded that .879 is the appropriate allocation factor to use for depreciation expense and further concludes that its use is appropriate for the purpose of allocating property tax expense to North Carolina. Staff witness Dudley's adjustment is based on this allocation factor and the Commission concludes that this adjustment is proper.

Based upon the examination made and conclusions reached regarding the adjustments proposed by Staff witness Dudley, the Commission concludes that the appropriate level of taxes - other than income to be used in this proceeding as an operating revenue deduction is $353,462.

The next area of difference in the determination of total operating revenue deductions concerns the amount of test-period State and Federal income tax expense. Although the witnesses used the same statutory tax rates, their resulting tax amounts were not equal due to the different levels of operating revenues and operating revenue deductions claimed by each witness in computing taxable income. These differences in operating revenues and operating revenue deductions have previously been discussed, and the Commission does not deem it necessary to recapitulate these differences. The level of State and Federal income taxes found proper by the Commission is different from the amounts presented by either witness in his prefiled testimony; therefore, the Commission will calculate the appropriate level of State and Federal tax expense for use in this proceeding. However, there are five differences between the two witnesses' computations of Federal and State income taxes which should be discussed, and the Commission will now discuss these differences.

The first difference is the amount of the deduction for interest expense. Company witness Rowan used the actual amount of interest expense allocated to North Carolina operations during the test period, or $260,284. Staff witness Dudley used interest expense of $250,834, which he calculated as the interest expense on the end-of-period debt capital supporting the North Carolina original cost net investment as computed on Dudley Exhibit I, Schedule 2. The Commission finds that both of these amounts of interest expense are incorrect. Company witness Rowan's interest expense is the actual amount which was incurred by Mid-Carolina during the test period and is therefore not an amount computed on end-of-period debt. Furthermore, since Mr. Rowan allocated total capital to North Carolina operations based on the ratio of North Carolina plant in service to total plant in service, he overstated his interest expense amount by including interest on debt capital which supports nonrate base assets. It is clearly inappropriate to deduct interest expense on debt which has

been used to finance nonrate base assets. The interest expense which should be deducted in determining income taxes and net income for common equity for the purpose of establishing utility rates is the interest expense on the debt which has financed the original cost net investment. Although Staff witness Dudley's method of computing interest expense to be deducted in computing income taxes is correct, the specific amount which he deducted is not proper because the original cost net investment found by the Commission is different from the original cost net investment used by witness Dudley. The Commission therefore concludes that $250,791, as calculated on Schedule II of Evidence and Conclusions for Finding of Fact No. 20 of this Order, is the proper amount of the interest deduction for use in the calculation of State and Federal income taxes.

The second difference concerns $463 of nonoperating expenses which were deducted by Company witness Rowan, and excluded by Staff witness Dudley, as a deduction to determine taxable income. The Commission recognizes that this amount is comprised of "below the line" expense amounts and is not related to utility operations, and, therefore, the Commission concludes that this amount should not enter into the income tax calculation for rate-making purposes.

The third difference concerns the deduction of end-of-period capitalized FICA taxes. Company witness Rowan excluded the pro forma amount of FICA taxes capitalized from his income tax calculation, while Staff witness Dudley included $4,992 of end-of-period capitalized FICA taxes as a deduction to determine taxable income. Staff witness Dudley testified that his reason for deducting capitalized FICA taxes was that Mid-Carolina included as an income tax deduction all FICA taxes incurred during the taxable year regardless of whether the taxes were expensed or capitalized in the accounting records. Staff witness Dudley agreed on cross-examination that, based upon further investigation, Mid-Carolina deducts only the FICA taxes expensed during the year incurred and does not deduct currently for income tax purposes the FICA taxes which are capitalized. Staff witness Dudley agreed that the FICA taxes capitalized should not appear as a deduction to determine taxable income for rate-making purposes. The Commission concludes, therefore, that no deduction for capitalized FICA taxes should be made in the calculation of test-period income tax expense.

The fourth difference concerns the income tax effect of the deduction of the cost of removing assets from plant in service. Company witness Rowan included no cost of removal amount as a deduction to determine taxable income, but Staff witness Dudley did. Staff witness Dudley testified that his treatment of this item was based on the assumption that the ratepayer received the tax benefits from the cost of removal only in the year that the cost of removal expense was actually incurred by the Company and thereby included as a deduction on that year's tax return. Staff witness Dudley, on cross-examination, pointed out that his treatment of the

cost of removal was consistent with the treatment given this item in the Company's response to item 13a(7) of the minimum filing requirements. Upon further cross-examination, Staff witness Dudley agreed, notwithstanding the treatment of this item in the Company's minimum filing requirements, that, if the Company were following normalization accounting for the cost of removal, it would be inappropriate to include the test year cost of removal as a deduction in the determination of taxable income, since the ratepayers would be receiving the tax benefit over the life of the plant rather than in the year that the actual cost of removal was incurred. Further investigation has revealed that Mid-Carolina is deferring income taxes on the difference between book depreciation expense which includes an amount for the estimated cost of removing the plant and tax depreciation expense which does not include an amount for the estimated cost of removal. This means that the ratepayers get the income tax benefit of the cost of removal over the life of the plant, while the Company gets the tax benefit only when the plant is actually removed. The Commission concludes that, since the ratepayers are receiving the income tax benefit of the cost of removal over the life of the property, no test-period actual cost of removal deduction should be used in the computation of taxable income for use in this proceeding. If the actual cost of removal were deducted in this proceeding, that treatment would give the ratepayers the income tax benefit of cost of removal twice - once over the life of the property and second, when the property is actually retired.

The fifth difference concerns the proper amount of amortization of investment tax credits to determine test-period Federal income tax expense. Company witness Rowan testified that the appropriate amount of amortization of investment tax credits allocable to North Carolina operations is $23,083, or 88.4% of the total Company test-period amount. The revenue apportionment ratio used on the 1975 State income tax returns was 88.4%. Staff witness Dudley testified that $22,946 or 87.9% of the total test-period amount of amortization of investment tax credits should be used in this proceeding to determine Federal income tax expense. Staff witness Dudley testified that the investment tax credit is based on the acquisition of qualifying depreciable plant investment and is therefore more closely associated with the North Carolina plant in service ratio (.879) than the unrelated revenue apportionment ratio (.884). The Commission concludes that the proper amount of total investment tax credits amortized which is allocable to North Carolina operations for the purpose of computing test-period Federal income tax expense is more closely related to the qualifying plant investment, and, therefore, the North Carolina plant in service ratio than to a ratio of North Carolina gross revenues to total gross revenues; therefore, the Commission concludes that the proper amount of amortization of investment tax credits for use in this proceeding is $22,946.

The Commission concludes that the proper amount of State income taxes is $45,866 and Federal income taxes is $321,964. The following schedule sets forth the approved State and Federal income tax calculation:

Line No.	Item	Amount
1.	Total operating revenues	$3,246,220
2.	Operating revenue deductions:	
3.	Operating expenses and depreciation	1,876,935
4.	Other operating taxes	353,462
5.	Interest - customer deposits	603
6.	Interest expense	250,791
7.	Total deductions	2,481,791
8.	State taxable income (L1 - L7)	764,429
9.	State income tax rate	x .06
10.	State income taxes (L8 x L9)	$ 45,866
11.	Federal taxable income (L8 - L10)	718,563
12.	Federal income tax rate	x .48
13.	Federal income taxes before amortization of investment tax credit	344,910
14.	Amortization of investment tax credit	22,946
15.	Federal income taxes (L13 - L14)	$ 321,964

The final operating revenue deduction upon which the two witnesses are in disagreement is interest on customer deposits. Company witness Rowan did not include any amount of interest on customer deposits as an operating expense while Staff witness Dudley included an end-of-period amount of $603. The Commission has previously concluded that the amount of end-of-period customer deposits allocable to North Carolina should be included as a reduction of the working capital allowance and now concludes that it is proper to include $603 of end-of-period interest on these deposits as an operating revenue deduction with the result that Mid-Carolina will be allowed to recover only its cost of these customer supplied funds.

Based on the testimony and evidence presented in this case, as discussed above, the Commission concludes that the proper level of total operating revenue deductions is $2,598,830.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17, 18, AND 19

There were two witnesses presented in the area of Cost of Capital/Fair Rate of Return. Joseph Brennan, President of Associated Utility Services, Inc., was presented by the Company and Edwin Rosenberg was presented by the Commission Staff. Mr. Brennan testified that his studies led him to

the conclusion that the required return on the original cost investment of the Company was at least 8.66%. This return on the original cost investment translated into a return on original cost common equity of 14%. Mr. Rosenberg recommended a return on original cost common equity of 13% with a resulting return on original cost investment of 8.19%.

The differences in the recommendations of the two witnesses can be traced to a combination of factors. First, they employed slightly different capital structures with Mr. Brennan using the forecasted year-end 1976 capital structure and Mr. Rosenberg using the capital structure at the end of the test year. The actual ratios were only slightly different and the Commission, therefore, concludes that the test year capital structure as proposed by the Staff should be used. This capital structure consisted of the following:

Class of Capital	% of Total
Long-term debt	41.31
Short-term debt	6.37
Common equity	44.91
Cost-free capital	7.41

When the excess of the fair value of the Company's property used and useful at the end of the test year over and above the original cost of such property or the fair value increment of $972,713 (as determined in Finding of Fact No. 13, supra) is added to the equity component of the original cost or actual capital structure at the end of the test period, the resulting fair value capital structure is as follows:

Class of Capital	% of Total
Long-term debt	37.85
Short-term debt	5.84
Common equity	49.52
Cost-free capital	6.79

The second area of difference between the two witnesses is in the area of the proper cost of short-term debt. Mr. Brennan used a cost rate of 10% while Mr. Rosenberg used 8.5%. The use of the 10% rate for short-term debt as proposed by Mr. Brennan is inappropriate. Short-term debt rates are not now near 10%; they have not been near 10% for some time, and the Commission can see no indication that they will soon return to that level. Indeed, the 8.5% rate used by the Staff witness would seem to allow a reasonable margin for an increase in the cost of short-term debt. The Commission, therefore, concludes that the 8.5% cost figure for short-term debt is proper and such figure will be used here.

The differences in the embedded cost of long-term debt proposed by the two witnesses are minimal; Mr. Rosenberg used 4.39% while Mr. Brennan used 4.38%. The Commission, consistent with the previous discussion, concludes that the 4.39% figure proposed by the Staff should be used.

The third area of disagreement between the witnesses concerns the proper cost rate to be assigned to equity capital. As noted above, Mr. Brennan used 14% and Mr. Rosenberg used 13%. Each witness based his cost of equity on a study which he performed and, although the methodologies differed, the basic objective of each witness was to take information from historical capital market data and apply it to the cost of equity to the Company. Mr. Brennan made use of the earnings/price ratios of various utility and nonutility companies as well as other tests such as the Discounted Cash Flow approach to arrive at his figure of 14%. Mr. Rosenberg relied on the application of the Discounted Cash Flow approach to a group of 13 operating telephone utilities and telephone holding companies listed in the Value Line Investment Survey to reach his recommended return of 13%.

The determination of the proper return rate to be used for the common equity component of capital lies within a "zone of reasonableness" and is never without some margin for error; thus, the choice between the 13% and the 14% recommendations of the two witnesses is not a clear-cut matter. The evidence does not support either a conclusion that the return of 13% as recommended by Mr. Rosenberg would jeopardize the Company's ability to carry out its obligations to its customers and investors or a conclusion that the return of 14% as recommended by Mr. Brennan would be in excess of the reasonable level of returns required by G.S. 62-133(b)(4).

The Commission has considered the evidence presented in light of the tests laid down by G.S. 62-133(b)(4) and the opinion of the Supreme Court of North Carolina in State ex rel. Utilities Commission, et al. v. Duke Power Company, 285 N.C. 377 (1974). Considering also the fair value of its investment in utility property, its business and financial risks and the markets in which it must compete for debt and equity capital, the Commission concludes that a rate of return of 7.8% on the fair value of Mid-Carolina's property used and useful in rendering telephone utility service to North Carolina customers is reasonable and fair. Such a return on fair value will produce a return of 11.39% on the Company's fair value equity, which includes both book equity and the fair value equity. The actual return on end-of-period book common equity yielded by the rate of return herein approved on rate base is 13.71%. Such returns on book common equity and fair value equity are just and reasonable. The Commission finally concludes that the rates herein approved should enable the Company, given prudent management, to attract sufficient debt and equity capital from the market to discharge its obligations, including a

fair profit to its shareholders, and to achieve and maintain a high level of service to the public.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

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, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

SCHEDULE I
MID-CAROLINA TELEPHONE COMPANY
DOCKET NO. P-118, SUB 7
STATEMENT OF RETURN
TWELVE MONTHS ENDED FEBRUARY 29, 1976

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Local service	$ 1,820,119	$569,497	$2,389,616
Toll service	1,311,381		1,311,381
Miscellaneous	158,504		158,504
Uncollectibles	(43,784)	(5,499)	(49,283)
Total operating revenues	3,246,220	563,998	3,810,218
Operating Revenue Deductions			
Maintenance expenses	445,501		445,501
Traffic expenses	27,218		27,218
Commercial expenses	199,783		199,783
General office salaries and expenses	299,578		299,578
Other operating expenses	244,802		244,802
Expenses charged to construction	(60,788)		(60,788)
Total operating expenses	1,156,094		1,156,094
Depreciation	720,841		720,841
Taxes-other than income	353,462	33,840	387,302
Income taxes-state & federal	367,830	271,017	638,847
Interest on customer deposits	603		603
Total operating revenue deductions	2,598,830	304,857	2,903,687
Net operating income for return	$ 647,390	$259,141	$ 906,531

Investment in Telephone Plant			
Telephone plant in service	$14,620,408		$14,620,408
Less: Accumulated depreciation	(4,069,737)		(4,069,737)
Net investment in telephone plant in service	10,550,671		10,550,671
Allowance for Working Capital			
Materials and supplies	127,986		127,986
Cash	96,391		96,391
Average prepayments	35,228		35,228
Less: Average operating tax accruals	(150,750)		(150,750)
Customer deposits (end-of-period)	(10,046)		(10,046)
Total allowance for working capital	98,809		98,809
Net Investment in Telephone Plant in Service Plus Allowance for Working Capital	$10,649,480		$10,649,480
Fair Value Rate Base	$11,622,193		$11,622,193
Rate of Return on Fair Value Rate Base	5.57%		7.80%

SCHEDULE II
MID-CAROLINA TELEPHONE COMPANY
DOCKET NO. P-118, SUB 7
TWELVE MONTHS ENDED FEBRUARY 29, 1976

	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
CAPITALIZATION	Present Rates - Fair Value Rate Base			
Long-term debt	$ 4,399,300	37.85	4.39	$193,129
Advances from parent company	678,372	5.84	8.50	57,662
Total debt	5,077,672	43.69		250,791
Common Equity				
Book $4,782,682		41.15		
Fair value increment 972,713		8.37		
	5,755,395	49.52	6.89	396,599
Cost-free capital	789,126	6.79	-	-
Total	$11,622,193	100.00		$647,390
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 4,399,300	37.85	4.39	$193,129
Advances from parent company	678,372	5.84	8.50	57,662
Total debt	5,077,672	43.69		250,791
Common Equity				
Book $4,782,682		41.15		
Fair value increment 972,713		8.37		
	5,755,395	49.52	11.39	655,740
Cost-free capital	789,126	6.79	-	-
Total	$11,622,193	100.00		$906,531

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

Philip L. Hamrick, President of Mid-Carolina Telephone Company, testified regarding the Applicant's proposed rate schedules. He proposed a uniform rate structure for Mid-Carolina for local service, miscellaneous rates and service connection charges. In addition to proposing the elimination of all zone charges for service outside of the base rate area, Mr. Hamrick requested a ratio of business to residence rates of 2.5 to 1. Mr. Hamrick stated that the

Applicant's basic telephone service rates were established on the basis of calling scope in order to make the rates more equitable among all customers. Mr. Hamrick also proposed an increase in the local coin pay station rate to 20¢ from the present 10¢.

William J. Willis, Jr., Rates and Tariff Engineer 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. Willis noted that the rate ratios recently set by the Commission for other companies could produce large increases in the Applicant's business rates and suggested that smaller rate ratios should be considered depending on the conclusions concerning revenue requirements made by the Commission in this docket.

In regard to the Applicant's proposal for rotary line rates, Mr. Willis recommended that the Commission limit the application of a rotary rate to rotary lines not terminated in key systems, multiline sets or PBX switchboards and that the rotary arrangement should be included in the key trunk and PBX trunk rates without an additional additive. Mr. Willis suggested an expansion of the key trunk definition to include lines terminating in three-line sets and single-button sets as well as central office lines terminating in key systems. Mr. Willis 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 cost which would keep pace with marketing methods and other changes that may follow from the FCC's equipment registration program. Mr. Willis supported the Applicant's proposals for an increase in the local coin rate and a change in semipublic billing. Mr. Willis further recommended a change in the procedure for rating mileage services such as extension line, tie line and local private line service. Mr. Willis proposed that the Company change to a direct airline method of measuring local mileage services.

Mr. Willis also proposed changes in rates for certain miscellaneous items. He stated that he had obtained direct cost information figures from other companies concerning some of these items; as to the others, he stated that they were being offered at rates which are out of line with rates of other companies.

Based on the testimony and exhibits of Mr. Hamrick and Mr. Willis, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Mid-Carolina 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 2.5 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 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 Mid-Carolina's 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 20 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. 22

Vern W. Chase, Chief Engineer of the Commission's Telephone Rate Section, testified that directory assistance has become an expensive service to provide and that it is a service where the costs can be identified for rendering the service as well as for identifying the amount of service used by each subscriber. Further, he stated that there is no question in his mind but 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 such use.

He also testified that 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 approval of the directory assistance charge plan previously authorized for Central Telephone Company.

Neither the Applicant nor the Attorney General offered testimony relating to directory assistance charges.

Based on the foregoing evidence, the Commission concludes that charges for directory assistance inquiries are an appropriate means of allocating to subscribers a portion of the costs of specific services used by them. A large number of calls are made for information that is readily available in the telephone book. This practice places a burden on the general body of telephone ratepayers and hinders 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 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 $23,045 and increased revenues of $1,665.

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 telephone companies to gain

operating experience with different plans. At such time as sufficient data is available to evaluate the merits of such 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 Mid-Carolina, in cooperation with the Commission Staff, shall initiate an investigation into the service problems testified to by the public witnesses from Denton. Such investigation shall include such participants from other connecting telephone utilities as may be necessary to solve the problem described during the hearings.

2. That the Applicant, Mid-Carolina 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 $569,497 based upon stations and operations as of February 29, 1976, as hereinafter set forth in Appendices A, B, and C.

3. That the rates, charges, and regulations set forth in Appendices A, B, and C attached hereto, which will produce additional gross revenues of approximately $569,497 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.

4. That the Applicant shall file within seven days from the date of this Order the necessary revised tariffs reflecting the above changes in rates, charges, and regulations shown in Appendices A and B. Revised tariffs reflecting the provisions in Appendix C shall be filed 30 days prior to the effective date of said provisions.

5. 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.

6. That Mid-Carolina is authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of this Order and after the NOTICE attached as Appendix D is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. Mid-Carolina shall, within 30 days after directory assistance charges become effective, mail as a bill insert the REMINDER, also a part of Appendix D, 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, Mid-Carolina shall place in its telephone directories the information included in Appendix D relating to directory assistance charges.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of February, 1977.

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

APPENDIX A
MID-CAROLINA TELEPHONE COMPANY
DOCKET NO. P-118, SUB 7

BASIC LOCAL SERVICE

Exchange Rate Groups
Monthly Flat Rates

	Main Stations and	Residence			Business		
Group	Equivalents	1-Pty.	2-Pty.	4-Pty.	1-Pty.	2-Pty.	4-Pty.
1	0-2000	7.80	6.80	6.55	19.50	17.50	17.00
2	2001-4000	8.00	7.00	6.75	20.00	18.00	17.50
3	4001-8000	8.20	7.20	6.95	20.50	18.50	18.00
4	8001-16000	8.40	7.40	7.15	21.00	19.00	18.50
5	16001-32000	8.60	7.60	7.35	21.50	19.50	19.00

Exchange	Applicable Local Exchange Rate Group
Columbus	3
Denton	1
Granite Quarry	5
Green Creek	3
Mooresville	3
Tryon	3

All zone charges are eliminated.

Note: For the remainder of Appendix A and Appendices B, C, and D, see the official Order in the Office of the Chief Clerk.

DOCKET NO. P-40, SUB 141

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Norfolk & Carolina Telephone & Telegraph Company for Authority to Adjust its Rates and Charges in its Service Area Within North Carolina	ORDER APPROVING INCREASES IN RATES AND CHARGES

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on December 7 and 8, 1976

BEFORE: Commissioner J. Ward Purrington, Presiding; and Commissioners Tenney I. Deane, Jr., and Barbara A. Simpson

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27601

For the Intervenors:

Robert P. Gruber, Special Deputy Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public of North Carolina

For the Commission Staff:

Wilson B. Partin, Jr., and Dwight W. Allen, Assistant Commission Attorneys, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On July 16, 1976, Norfolk & Carolina Telephone & Telegraph Company (Norfolk Carolina, the Applicant, or the Company) filed an Application with the Commission for authority to adjust and increase its rates and charges for local telephone service in North Carolina to become effective without suspension on service rendered from and after August 31, 1976. The increase requested would amount to $713,000 in additional local service revenues. The Company also filed with its Application a request that, in the event the Commission suspends the effective date of the proposed rates, the Commission then permit the Applicant to place its rates into effect on an interim emergency basis subject to refund.

On August 4, 1976, the Commission issued its Order suspending the proposed rates and setting the matter for investigation and hearing. The hearing on the Company's Application was set for Tuesday, December 7, 1976. The Commission's Order also suspended the proposed interim rates and set the Company's request for interim emergency rates for hearing on Thursday, September 2, 1976. The Order required the Applicant to give appropriate notice of the proposed increases, both interim and permanent, to the public and to its customers. The Order also provided for a test year ending December 31, 1975.

The request for interim emergency relief came on for hearing as scheduled on September 2, 1976. The Applicant, the Commission Staff, and the Attorney General of North Carolina were present and were represented by counsel. The Applicant offered the testimony and exhibits of L. S. Blades III, President of Applicant; Robert M. Byrum, Chief Accountant of Applicant; and Chauncey D. Leake, Jr., Vice President of Moseley, Hallgarten and Estabrook, Inc. Neither the Staff nor the Attorney General offered witnesses. Thereafter, on September 14, 1976, the Commission issued its Order Denying Request for Interim Emergency Relief, which held that the Company failed to show that good cause existed to grant the interim relief requested by it.

The Company's Application came on for hearing as scheduled on December 7, 1976, at the Commission's Hearing Room in Raleigh. The Applicant, the Commission Staff, and the Attorney General of North Carolina were present and were represented by counsel. The Applicant presented the testimony of the following witnesses:

1. L. S. Blades III, President of Norfolk Carolina Telephone Company, testified on the Company's Application, the service to its customers, and the need for additional revenues;

2. Joseph F. Brennan, President of Associated Utility Services, testified on the cost of capital and on the fair rate of return;

3. Robert M. Byrum, Chief Accountant of the Company, testified on the accounting aspects of the Application;

4. John C. Goodman, Vice President and Manager, Public Utilities Division, American Appraisal Company, Inc., testified on the appraisal study of the Company's plant in service;

5. William C. Meekins, Jr., Secretary-Treasurer and Commercial Manager of the Applicant, testified on the Applicant's proposed rates and charges; and

6. Chauncey D. Leake, Jr., Investment Banker, Moseley, Hallgarten and Estabrook, Inc., testified on Applicant's financing plans for issuance of long-term debt and equity.

The Commission Staff offered the testimony and exhibits of the following witnesses:

1. Vern W. Chase, Chief Engineer of the Telephone Rate Section, testified on the Company's directory assistance charges;

2. Millard N. Carpenter, Rate Analyst, Engineering Division, testified on the Company's proposed rates and charges including service charges;

3. Hugh L. Gerringer, Telephone Engineer, 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;

4. Eugene H. Curtis, Jr., Operations Engineer with the Operations Analysis Section, testified on the replacement cost appraisal filed by the Company and the derivation of the Company's fair value rate base;

5. Benjamin R. Turner, Jr., Telephone Engineer in the Telephone Service Section, testified on the evaluation and investigation of the Company's quality of telephone service;

6. Paul B. Goforth, Staff Accountant, testified on the test year original cost net investment, revenues, expenses, and returns on original cost net investment and common equity; and

7. Thomas M. Kiltie, Economist with the Operations Analysis Section, testified on the cost of capital and fair rate of return.

The following public witnesses appeared and testified on behalf of the Dare County Board of Commissioners:

G. Irvin Aldridge, Manteo, North Carolina, and Thomas Gray, Chairman of the Dare County Board of Commissioners.

Other matters which appeared in the official file of this docket include a letter of August 30, 1976, from the President of the Company, L. S. Blades III, confirming that a merger between the North Carolina and Virginia operations of the Norfolk Carolina Telephone Company was consummated on August 24, 1976, and that the Company shall be known hereafter as the Norfolk Carolina Telephone Company.

Based on the verified Application and exhibits, the testimony and exhibits presented at the hearing, and the previous Commission Orders in Docket No. P-40, Sub 134 confirming the quality of service provided by the Applicant, the Commission makes the following

FINDINGS OF FACT

1. Norfolk Carolina Telephone Company is a duly franchised public utility providing telephone service to its subscribers in North Carolina and is a duly created and existing corporation authorized to do business in North Carolina and is lawfully before the Commission in the proceeding for a determination of the justness and reasonableness of its proposed rates and charges as regulated by the Commission under Chapter 62 of the General Statutes of North Carolina.

2. The present Company evolved from a merger between The Norfolk and Carolina Telephone Company and The Norfolk and Carolina Telephone Company of Virginia, which merger was approved by this Commission and finally consummated on August 24, 1976.

3. Norfolk Carolina, with headquarters in Elizabeth City, North Carolina, serves approximately 32,463 total stations and provides telephone service in seven counties and seven municipalities in northeastern North Carolina.

4. The present proceeding is the first general rate Application filed by the Company since June 17, 1974, other than a supplemental application for interim rate relief on August 5, 1974. The Commission granted interim and final rate relief in said Applications by Orders dated August 29, 1974, and April 11, 1975.

5. 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.

6. The annual increase in local service revenues sought by the Company is $713,000.

7. The overall quality of service provided by Norfolk Carolina is inadequate.

8. The original cost of Norfolk Carolina's intrastate telephone plant in service used and useful in providing telephone service is $21,248,194. The accumulated depreciation associated with this telephone plant in service is $5,524,649. Norfolk Carolina's reasonable original cost of intrastate net telephone plant in service is $15,723,545.

9. The reasonable replacement cost less depreciation of Norfolk Carolina's plant used and useful in providing intrastate telephone service in North Carolina is $19,333,628.

10. The fair value of Norfolk Carolina's plant used and useful in providing intrastate telephone service in North Carolina should be derived by giving 2/3 weighting to the reasonable original cost less depreciation of Norfolk Carolina's plant in service and 1/3 weighting to the depreciated replacement cost of Norfolk Carolina's utility plant. By this method, using the depreciated original cost of $15,723,545 and the depreciated replacement cost of $19,333,628, the Commission finds that the fair value of Norfolk Carolina's utility plant devoted to intrastate telephone service in North Carolina is $16,926,906. This fair value includes a reasonable fair value increment of $1,203,361.

11. The reasonable allowance for working capital is $257,702.

12. The fair value of Norfolk Carolina's plant in service to its customers within the State of North Carolina at the end of the test year of $16,926,906 plus the reasonable allowance for working capital of $257,702 yields a reasonable fair value of Norfolk Carolina's property in service to North Carolina customers of $17,184,608.

13. The approximate gross revenues net of uncollectibles for Norfolk Carolina for the test period are $5,868,267 and under Company proposed rates would have been $6,575,050 before annualization to year-end levels.

14. The level of Norfolk Carolina's operating revenue deductions after accounting and pro forma adjustments including taxes, interest on customer deposits, and an annualization adjustment is $4,562,772.

15. The capital structure which is proper for use in this proceeding is the following:

Item (a)	Percent (b)
Long-term debt	48.60
Short-term debt	6.30
Preferred stock	10.40
Common equity	33.50
Cost-free capital	1.20
Total	100.00

16. When the excess of the fair value rate base over original cost net investment is added to the equity component of the original cost net investment, the resulting fair value capital structure is as follows:

Item (a)	Percent (b)
Long-term debt	45.20
Short-term debt	5.86
Preferred stock	9.67
Common equity	38.16
Cost-free capital	1.11
Total	100.00

17. The Company's original cost equity ratio is 33.50% and the fair value common equity ratio is 38.16%.

18. The failure of Norfolk 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 long-term debt is 8.20%. The proper embedded cost of short-term debt is 8.50%. The proper embedded cost of the Company's preferred stock is 10.34%. The fair rate of return which should be applied to the fair

value rate base is 9.00%. The 9.00% return on the fair value rate base and the returns of 8.20% on long-term debt, 8.50% on short-term debt, and 10.34% on preferred stock yield a rate of return on Norfolk Carolina's fair value common equity of 9.95%. If the service of Norfolk Carolina had been adequate, a return of 9.45% on fair value property and 11.1% on fair value equity would be just and reasonable for the Company.

19. The separation factors proposed by the Staff are proper for purposes of determining Norfolk Carolina's intrastate level of operations.

20. 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.

21. The schedule of rates, charges, and regulations included in Appendices A, B and C of this Order are found to be just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 6

The evidence for the foregoing findings is contained in the verified Application, the testimony of Company witness Blades and previous Commission Orders in this and prior dockets. Such findings are essentially procedural and jurisdictional in nature and were not contested during presentation of evidence herein. The Commission calls specific attention to the letter of August 30, 1976, from Company President Blades confirming that a merger between the North Carolina and Virginia operations of the Company was consummated on August 24, 1976, and that the Company will be known thereafter as the Norfolk Carolina Telephone Company.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence as to the quality of telephone service provided by Norfolk Carolina which appears in this record consists of the testimony and exhibits of L. S. Blades III, President of Norfolk Carolina Telephone Company; Benjamin R. Turner, Jr., Telephone Engineer, Telephone Service Section, North Carolina Utilities Commission; and two public witnesses. The Commission takes judicial notice of the prior Orders of the Commission in Docket No. P-40, Sub 134.

In his direct prefiled testimony, Mr. Blades testified concerning the history of his employment with the Company, the geographical area served by the Company, the estimated population in the service area, and an economic profile of the service area. Mr. Blades stated that he began working for the Company as Vice President and General Counsel in 1962. He remained in that position until January 1, 1973, at which time he became President of the Company. Norfolk

Carolina Telephone Company serves an estimated population of 75,000 people in eastern North Carolina. The area is bounded by Virginia to the north, the Atlantic Ocean to the east, Hatteras Inlet to the south, and the Chowan River to the west. He characterized the economy of the area as being comprised of two distinct economic groups: The Albemarle Metro Area which is basically an agricultural-multi-crop truck farming economy and the central region (Dare County) which is a mature resort area having a major resort "strip" approximately 17 miles long. Mr. Blades also stated that the resort area is more unstable economically and especially subject to the adverse impacts of inflation and recession. Due to the corrosive nature of salt air and blown sand, equipment and permanent hardware must be double galvanized or covered with another heavy duty material.

In rebuttal, Mr. Blades emphasized that only a very few complaints against the Company had been received and that no corporations have been seriously hampered by the Applicant's service. He also indicated that less than 15 complaints against the Company have been filed with the Commission during the 12 months immediately prior to the hearing.

Mr. Blades stated that the Commission should look at what the Company has faced for the last three years. They have had death and illness in top management, rejection by lenders and stockholders, loss of the interim rate case, and union activity in both divisions. In order to correct some of these problems, the Company, in addition to strengthening its Staff, has reorganized, merged two affiliates, handled four rate cases, and issued securities on three occasions.

Mr. Turner testified concerning the results of the Commission Staff's investigation and evaluation of the quality of service provided by the Company and the Staff's review of central office and outside plant engineering. The witness' testimony compared the results of the tests conducted by the Staff with the Commission's service objectives. He testified that the Company was meeting the Commission's objectives regarding intraoffice, interoffice, and DDD call completion rates; transmission and noise measurement; operator answer time; public pay station tests; and held orders for new and regraded service. The Company, however, was not meeting the service objectives with regard to trouble report rates, trouble report response time, and service order handling.

Mr. Turner offered exhibits which showed that the Company was consistently over the Commission's trouble report rate objective of six trouble reports per 100 stations and that the overall Company trouble report rate ranged from a low of 6.7 to a high of 11.7 during 1976. Regarding the failure of the Company to meet the Commission's objectives on trouble report response times, the witness presented exhibits which showed that 28% of the out-of-service trouble reports received before 5:00 P.M. were carried over to the next day and that only 74% of the out-of-service trouble reports were

cleared within 24 hours. He indicated that this exceeded the Commission's objective of no more than 10% of the out-of-service trouble reports received before 5:00 P.M. to be carried over for work the next day and at least 95% of all out-of-service trouble reports to be cleared within 24 hours. Additionally, Mr. Turner testified that out of a sample of 596 regular service orders only 43% were completed within five working days. The Commission's objective is for 90% of all regular service orders to be worked within five working days.

Mr. Turner also pointed out that the Company had not fully complied with the Commission's Order dated April 11, 1975, in Docket No. P-40, Sub 134. In that Order, the Company was ordered to: (1) take action to reduce the overall level of subscriber trouble reports to six or less per 100 stations by December 31, 1976, and (2) commence accumulating data by July 1, 1975, to enable the Company to determine: (a) the percentage of service orders worked within five working days and (b) the percentage of out-of-service trouble reports cleared in 24 hours. Mr. Turner further testified that while the Company had filed a trouble report practice by July 1, 1975, the practice has not been implemented and the overall trouble report objectives outlined in the previous Order have not been met.

Mr. Turner also commented on central office and outside plant engineering. He stated that the Company's traffic program was still in its infancy. He noted specifically that the purchase of some traffic equipment was awaiting approval and that traffic studies conducted for separation purposes had not been analyzed by the Company's Staff Engineer to determine its usefulness for central office engineering.

In regards to the Company's use of demand and facilities charts, Mr. Turner stated that the Company was becoming more responsive to changes in demand for facilities. He pointed out several areas in which the Company could improve its planning of central office facilities.

Mr. Turner further stated that the outside plant engineering group was well organized and responding to subscriber growth demands.

The two public witnesses who testified were G. Irvin Aldridge, Attorney, representing the Dare County Board of Commissioners and Thomas Gray, Chairman of the Board, Dare County Board of Commissioners.

Mr. Aldridge testified that in his opinion the service afforded Dare County has not kept pace with the modern trend of growth in Dare County but has retained a quality of status quo which many users found inconvenient 10 years ago. He complained of getting a busy signal after dialing the 112 access code for long distance and of getting a busy signal after dialing the 473 prefix. He also complained of having

to wait as long as 15 minutes for access to a 112 trunk. Mr. Aldridge further testified that he has had a continuous problem of people not being able to hear him talking from his home telephone and that although this trouble has been reported to the telephone office on at least six occasions the Company's efforts to correct the problem have not been successful.

Mr. Gray indicated that the residents of the county would like to communicate freely with other people in their own county. He also mentioned the "problem of getting frequent busy signals when trying to reach Manteo and Nags Head."

The Commission is of the opinion, and thus concludes, that its service objectives are a reasonable measure of the overall level of service provided by telephone utilities and that they are not unduly difficult to attain provided the utility is sufficiently diligent in its pursuit of these objectives. In the Order dated April 11, 1975, the Commission concluded that the Company should take specific action to improve the quality of service and effectively gave the Company an extended period of time within which to reach the Commission's service objectives. In said Order, the Commission concluded that the Company should adopt a written trouble report practice so that its performance in that area could be better evaluated. The Company was also ordered to undertake annual traffic studies in each central office and to study connector group traffic individually. The Company was directed to prepare a demand and facilities chart for each central office showing the number of lines and terminals equipped, assignable and the number of lines and terminals in service each month so that the Company's future demands could be properly evaluated. The Commission also directed the Company to reduce its trouble reports and implement procedures to evaluate Company response times to those trouble reports.

The evidence in the record of this case indicates that the Company has not been diligent in the pursuit of the service goals and requirements this Commission found reasonable and proper in order to attain an adequate level of service in the April 11, 1975, Order and has given this Commission no reasonable cause for its failure to comply with that Order. The Commission is therefore of the opinion and so concludes that the overall quality of service provided by the Norfolk Carolina Telephone Company is inadequate.

The Company needs significant improvement in the areas of trouble report rates, trouble report response time, and service order response time. Specific personnel should be assigned to analyze each of these problem areas and develop means of eliminating the deficiencies. The Company should also strive to develop its traffic program.

The Commission also concludes that the Commission Staff should periodically review the Company's progress toward reducing the trouble report rate, improving trouble report

and service order response time, and developing fully the central office traffic program. The Company's continued failure to accomplish these basic service objectives cannot be tolerated. The Company is admonished to improve its quality of service since failure to do so could result in further penalties for inadequate service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission will now analyze the testimony and exhibits presented by Company witness Byrum and Staff witness Goforth concerning the original cost of Norfolk Carolina's intrastate net telephone plant in service. The following chart summarizes the amount which each witness contends is proper for this item:

Item	Company Witness Byrum (a)	Staff Witness Goforth (b)
Investment in telephone plant in service	$21,136,401	$21,248,194
Reserve for depreciation	5,466,234	5,524,649
Net telephone plant in service	$15,670,167	$15,723,545

Both witnesses agreed that Norfolk Carolina's total amount of telephone plant in service at the end of the test year was $30,391,658; however, the witnesses disagreed as to the appropriate amount of telephone plant in service applicable to intrastate operations. As can be seen in the chart above, the amount determined by Staff witness Goforth is $111,793 greater than the amount determined by Company witness Byrum. The different amounts of intrastate telephone plant in service found by the two witnesses result exclusively from the use of different intrastate allocation factors. Company witness Byrum determined the amount of intrastate telephone plant in service by allocating telephone plant in service to intrastate operations based on intrastate factors developed from a cost study for the 12 months ended June 30, 1975, while Staff witness Goforth allocated telephone plant in service to intrastate operations by applying the intrastate allocation factors developed by Staff witness Gerringer.

The Commission has found in Finding of Fact No. 19 that the intrastate allocation factors presented by Staff witness Gerringer are the appropriate factors to use in this proceeding; therefore, the Commission concludes that the original cost of intrastate telephone plant in service is $21,248,194.

The witnesses also disagreed on the proper amount of accumulated depreciation to be deducted from the cost of intrastate telephone plant in service in determining net intrastate telephone plant in service. Company witness Byrum deducted the actual balance in accumulated

depreciation as shown on the books at the end of the test year in the amount of $5,466,234, after allocation to intrastate operations. Staff witness Goforth increased this amount by $58,415 to reflect the effect of his end-of-period adjustment of $35,676 to depreciation expense and by $22,739, resulting from the use of different intrastate allocation factors to allocate the accumulated depreciation to intrastate operations. The factors were developed by Staff witness Gerringer. The Commission has previously found that Staff witness Gerringer's intrastate allocation factors are the appropriate factors to use in this proceeding; therefore, the Commission accepts Mr. Goforth's adjustment increasing the intrastate accumulated depreciation reserve by $22,739.

The $35,676 adjustment made by Staff witness Goforth increases the accumulated depreciation balance to bring it to an end-of-period level following his end-of-period depreciation expense adjustment. Company witness Byrum made an end-of-period depreciation expense adjustment but did not make the corresponding adjustment to accumulated depreciation.

The Commission is of the opinion that, since the ratepayers are being asked to pay in rates to cover an additional $35,676 of depreciation expense as if the end-of-test-period plant in service had been in service during the entire test period, the accumulated depreciation balance should be increased as if the end-of-period 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 an end-of-period level and not correspondingly increase the accumulated depreciation balance. The Commission, therefore, accepts Staff witness Goforth's upward adjustment of $35,676 to accumulated depreciation. The Commission concludes that the proper deduction of accumulated depreciation is $5,524,649.

The Commission concludes that the original cost of Norfolk Carolina's intrastate net telephone plant in service for use in this proceeding is $15,723,545.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9, 10, AND 12

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 state of the art of telephony. Company witness Goodman, a consultant to Norfolk Carolina Telephone Company testified with respect to his determination of the net trended original cost valuation of Norfolk Carolina's properties used and useful in providing telephone service to North Carolina as of December 31, 1975. Witness Goodman calculated his net trended original cost by computing the surviving original cost dollars, a reproduction cost new, a replacement cost which corrects plant in service for economies of scale, and a

condition percent based on an 8% present worth analysis for calculating accrued depreciation. Witness Goodman calculated his replacement cost less depreciation and provided this value to Company witness Rowan. Witness Rowan took the net replacement cost, added in working capital, and called the result fair value rate base.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the reproduction cost new and replacement cost as calculated by Company witness Goodman. However, in calculating accrued depreciation, there was a difference between the methodologies of Company witness Goodman and Staff witness Curtis. Staff witness Curtis calculated a condition percent based on the book reserve for figuring the accrued depreciation to be deducted from the replacement cost. The Commission concurs that a condition percent based on the book reserve is appropriate in that Company witness Goodman's 8% condition percent methodology understates the depreciation and overstates the condition percent.

The Commission concludes that the reasonable replacement cost less depreciation of Norfolk Carolina's telephone plant in service at December 31, 1975, is $19,333,628.

Having determined the appropriate original cost of net investment in intrastate plant to be $15,723,545 and the reasonable estimate of net replacement cost of that plant to be $19,333,545, the Commission must determine the fair value of Norfolk Carolina's net plant in service.

The Commission concludes that a weighting of 2/3 be given the original cost less depreciation and a 1/3 weighting be given the replacement cost less depreciation. By weighting the net original cost of $15,723,545 by a 66.7% factor and the net replacement cost of $19,333,628 by a 33.3% factor, the fair value of Norfolk Carolina's utility plant devoted to intrastate telephone service in North Carolina is $16,926,906. This fair value calculation includes a reasonable fair value increment of $1,203,361.

The fair value of Norfolk Carolina's plant in service to its customers within the State of North Carolina at the end of the test period, December 31, 1975, of $16,926,906 plus the reasonable allowance for working capital of $257,702 yields a reasonable value of Norfolk Carolina's property in service to North Carolina customers of $17,184,608.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Staff witness Goforth and Company witness Byrum each presented a different amount for the working capital allowance.

The following chart presents the amount proposed by each witness:

Item	Company Witness Byrum (a)	Staff Witness Goforth (b)
Cash	$189,622	$206,809
Materials and supplies	127,469	127,575
Average prepayments	-	7,313
Compensating bank balance	-	201,910
Average tax accruals	(129,891)	(266,869)
Customer deposits	-	(15,311)
Total	$187,200	$261,427

Company witness Byrum presented a working capital allowance of $187,200 consisting of materials and supplies, a cash allowance of 1/12 of operating expenses excluding depreciation and taxes, less average State and Federal income tax accruals.

Staff witness Goforth presented a working capital allowance of $261,427 consisting of materials and supplies, a cash allowance of 1/12 of operating expenses excluding depreciation and taxes, average prepayments and compensating bank balances, less the average balance of all 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 1/12 of operating expenses (including interest on customer deposits and the annualization adjustment), average prepayments, and compensating bank balances, less the average balance of all 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 $257,702, consisting of cash of $203,084, materials and supplies of $127,575, average prepayments of $7,313, compensating bank balance of $201,910, less average tax accruals of $266,869 and customer deposits of $15,311.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company witness Byrum and Staff witnesses Carpenter, Gerringer, and Goforth presented testimony concerning the representative end-of-period level of operating revenues. Staff witness Carpenter presented testimony concerning the end-of-period level of service charge revenues. Staff witness Gerringer testified specifically concerning the intrastate toll revenue increase effective July 1, 1975, the separation factors developed from the cost separation study for the 12 months ending June 30, 1975, and the appropriate end-of-period level of intrastate toll revenues. The end-of-period toll revenue amount determined by Staff witness Gerringer was included by Staff witness Goforth in his testimony and exhibit. Witnesses Byrum and Goforth each testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following chart shows the amounts claimed by each witness:

Item	Company Witness Byrum (a)	Staff Witness Goforth (b)
Local service revenues	$3,878,883	$4,049,335
Toll service revenues	1,461,512	1,648,110
Miscellaneous revenues	199,069	203,385
Uncollectible	(67,701)	(37,519)
Total	$5,471,763	$5,863,311

The first item of difference in the operating revenue stated above concerns local service revenues. Company witness Byrum testified that the appropriate level of local service revenues is $3,878,883 while Staff witness Goforth testified that the appropriate level is $4,049,335, or a difference of $170,452. The $170,452 difference is comprised of the following adjustments made by Staff witness Goforth:

Item	Amount
1. Adjustment to annualize December 1975 subscriber station revenues	$ 90,284
2. Adjustment to increase directory assistance charge revenues	15,585
3. Adjustment for rate increase for the Gatesville Exchange, effective July 1, 1976	4,012
4. Adjustment to increase revenues from installations, moves, and changes for rate increases effective February 15, 1976	45,628
5. Adjustment to annualize increase in pay station revenues granted in Docket No. P-40, Sub 134	11,015
6. Adjustment to annualize December 1975 local private line revenues	3,928
Total	$170,452

The Commission will now discuss each of the preceding adjustments comprising the $170,452 difference in operating revenues.

The first adjustment listed above concerns the proper end-of-period level of local service revenues.

Staff witness Goforth calculated the end-of-period level of local service revenues by multiplying the December 1975 subscriber station revenues of $315,078 by 12. From this amount he deducted an adjustment of $92,068 made by Company witness Byrum to reflect a local service rate decrease effective February 15, 1976 for the Kill Devil Hills, Buxton, and Waves exchanges to arrive at his end-of-period level of subscriber station revenues of $3,688,868.

Company witness Byrum calculated the end of test year level of local service revenue by increasing actual local service revenues by $115,174 to recognize the full annual effect of the rate increase granted by this Commission in Docket No. P-40, Sub 134, less his adjustment to reflect the local service rate decrease for the Kill Devil Hills, Buxton, and Waves exchanges, which was effective February 15, 1976, to arrive at his end-of-period level of subscriber station revenues of $3,598,584.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the method of calculating the end-of-period level of subscriber station revenues employed by Mr. Goforth is the proper method to use in this proceeding because he used the end-of-period number of customers and level of rates. The

Commission is of the opinion that the method of determining end-of-period revenues by using end-of-period stations and rates presents a more accurate level of revenues than the method of taking actual revenues per books, adding the portion of the rate increase granted in Docket No. P-40, Sub 134 which was based on the number of stations in service at July 31, 1974, and increasing the sum of these two items by the annualization factor. The Commission concludes that Staff witness Goforth's end-of-period level of subscriber station revenues in the amount of $3,688,868 should be used for the purpose of fixing rates in this proceeding.

The second adjustment listed above also concerns an adjustment to end-of-period local service revenues to recognize the effect of charging for directory assistance calls.

The Commission has found in Finding of Fact No. 20 that charging for directory assistance calls is an appropriate means of relieving those subscribers who do not use directory assistance excessively of the cost of directory assistance and requiring those who use the service excessively to pay in accordance with the service used. The Commission has previously approved a plan for the Company's charging for directory assistance calls; therefore, the Commission concludes that witness Goforth's adjustment increasing local service revenues by $15,587 is proper.

The third adjustment listed above concerns an adjustment for a rate increase for the Gatesville exchange, effective July 1, 1976.

Staff witness Goforth calculated the annual revenue increase related to the Gatesville exchange, occurring July 1, 1976, by multiplying units at December 31, 1975, by the new rates granted in Commission Order Docket No. P-40, Sub 140, to get the monthly revenue increase. He then multiplied the monthly increase by 12 to get the annualized increase related to the Gatesville exchange. Company witness Byrum used the revenues recorded during the test year and did not consider the new rates granted in Commission Order Docket No. P-40, Sub 140, effective July 1, 1976.

The Commission concludes that Mr. Goforth's method of calculating the annual revenue increase related to the Gatesville exchange is proper because he used end-of-period units and rates granted in Commission Order Docket P-40, Sub 140, effective July 1, 1976, to arrive at a reasonable level of revenues based on the new rates. Since the Commission is setting rates for the future, these rates should be based on the level of revenues and expenses which are expected to be experienced by the Company at the time the rates are set in this proceeding. The Commission concludes that Staff witness Goforth's annual revenue increase for the Gatesville exchange in the amount of $4,012 is proper and should be used for the purpose of fixing rates in this proceeding.

The fourth adjustment listed above concerns an adjustment to annualize revenues from installations, moves, and changes.

Staff witness Carpenter furnished Staff witness Goforth an adjustment of $45,628, increasing service charge revenues. In determining the end-of-period level of service charge revenues, before application of the annualization factor, witness Carpenter selected the months of February, July, and October and applied the rates approved in Docket No. P-100, Sub 34 which became effective on February 15, 1976, to the service charge activities for these three months. Mr. Carpenter testified that the months of February, July, and October were selected because the service activity during these three months most closely represented the average monthly service connection charge actively experienced during the test year.

Company witness Byrum used the revenues booked during the test year and considered the new rates granted in Commission Order Docket No. P-100, Sub 34, effective February 15, 1976.

Since the Commission is setting rates for the future, these rates should be based on the level of revenues and expenses which are expected to be experienced by the Company at the time the rates are set in this proceeding. The Commission concludes that Staff witness Goforth's adjustment to raise the level of service charge revenues in the amount of $45,628 should be used for the purpose of fixing rates in this proceeding.

The fifth adjustment listed above also concerns an adjustment to annualize pay station revenues.

Staff witness Goforth calculated the end-of-period level of pay station revenues by starting with pay station revenues for January through May 1976 in the amount of $30,168, subtracting pay station revenues for January through May 1975 in the amount of $21,799. He then divided this difference by five to get an average monthly increase. He then multiplied the average monthly increase by the number of months (6.58) in which the 20¢ rate was not in effect to arrive at this increase in pay station revenues of $11,015. Staff witness Byrum only recognized the 20¢ rate increase for 5.42 months in his calculation causing his end-of-period level to be understated.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the method of calculating the end-of-period level of pay station revenues employed by Mr. Goforth is the proper method because his method recognizes all the months in which the 20¢ rate was not in effect and also recognizes the reduction, if any, in the number of calls which resulted from increasing pay station rates from 10¢ to 20¢. The Commission concludes that Staff witness Goforth's adjustment increasing pay station revenues by $11,015 is proper.

The sixth adjustment listed above concerns an adjustment to annualize local private line revenues.

Staff witness Goforth calculated the end-of-period level of local private line revenues by multiplying the December 1975 local private line revenues of $1,895 by 12 to arrive at his end-of-period level of local private line revenues of $22,740. Company witness Byrum's end-of-period level of local private line revenues of $18,812, which is the actual amount accrued during the test year, does not recognize the months in which the rate increase granted by this Commission for local private line service in Docket No. P-40, Sub 134, were not in effect, causing his end-of-period level of local private line revenues to be understated.

The Commission concludes that the method of calculating the test year level of local private line revenues employed by Mr. Goforth is the proper method because he used end-of-period stations and rates which is a more accurate calculation than the method used by Company witness Byrum. The Commission concludes that Staff witness Goforth's end-of-period level of local private line revenues in the amount of $22,740 should be used for the purpose of fixing rates in this proceeding.

Staff witness Goforth's end-of-period level of local service revenues in the amount of $4,049,335 does not include a $4,480 adjustment to increase service charge revenues to an end-of-period level as recommended by Staff witness Carpenter. Witness Carpenter's adjustment is recommended to reflect system growth and a corresponding growth in installation activity during the latter part of the test year and to state service charge revenues on an ongoing level. Mr. Goforth's adjustment of $45,628 in service charge revenues reflects the increase in price but does not recognize the growth in installation activity during the latter part of the test year.

The Commission concludes that it is only logical to assume that, if the number of stations is increasing during the test year, there are increases in the number of requests for extensions, moves and changes, and other service charge revenues. The Commission finds and concludes that Mr. Carpenter's adjustment of $4,480 should be used for the purpose of determining the end-of-period level of local service revenues.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the representative end-of-period level of local service revenues is $4,053,815 ($4,049,335 + $4,480).

The next area of disagreement between the witnesses concerns the end-of-period level of toll revenues. In determining end-of-period intrastate toll revenues of $1,461,512, Company witness Byrum's calculation was based on the Company's net investment at December 31, 1974, and

operating expenses for the 12 months ended June 30, 1975, and an intrastate toll rate of return of 8.64%. As previously explained, Staff witness Gerringer testified concerning the representative level of end-of-period intrastate toll revenues. Witness Gerringer stated that he utilized the end-of-period level of net investments and operating expenses and an intrastate toll settlement rate of return of 8.06% in calculating the end-of-period level of intrastate toll revenues of $1,547,441. The rate of return of 8.06% is based on the sum of the monthly rates of return for the 12 months' period, July 1975 through June 1976. Some of these returns reflect 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. Witness Gerringer also testified that, in addition to the calculated amount of intrastate toll revenues, it was necessary to add a noncost study type of private line toll revenues in the amount of $11,022 to arrive at the total representative level of end-of-period intrastate toll revenues of $1,558,463. Staff witness Gerringer testified that his end-of-period toll revenue calculation did not include the effects of adjustments to the operating expenses as proposed by Staff witness Goforth.

Since it was proper for witness Gerringer to calculate the intrastate toll revenues using the intrastate toll portions of the Company's end-of-period total intrastate operations considered for rate-making purposes, the Commission finds it proper and consistent to use the 8.06% intrastate toll settlement rate of return developed by witness Gerringer using a 12 months' period with six months falling on each side of the end of the test period. A return so developed allows the corresponding intrastate toll revenues calculated using this return to reflect growth and to be determined consistent with actual settlement arrangements in that end-of-period net investments are representative of average net investments over the 12 months' period considered for developing the intrastate toll settlement rate of return.

The Commission agrees with the theory of witness Goforth's adjustment to intrastate toll revenues following accounting and pro forma adjustments to operating expenses; however, the Commission does not agree with the amount of $89,647 proposed by witness Goforth. This amount must be adjusted for the intrastate toll revenue effect of the increase in property tax expense found by the Commission. In determining his adjustment of $89,647, witness Goforth used the actual property tax expense of $242,936 accrued on the books during the test year. Mr. Goforth annualized this amount by applying the primary station growth factor of 2.03% to this amount, resulting in total end-of-period property taxes of $247,868. Under Evidence and Conclusions for Finding of Fact No. 14, the Commission found that end-of-period property tax expense is $258,115. When the $258,115 amount determined by the Commission is substituted

for the $247,868 amount used by witness Goforth, it is necessary to increase witness Goforth's adjustment from $89,647 to $90,748.

Based on the foregoing discussion of the evidence presented in this proceeding, the Commission concludes that the proper end-of-period level of intrastate toll revenues is $1,649,211 ($1,558,463 + $90,748).

The next item of disagreement between Company witness Byrum and Staff witness Goforth is the appropriate amount of miscellaneous revenues. Staff witness Goforth testified that his increase of $4,316 in miscellaneous revenues was caused by two adjustments. The first adjustment increasing intrastate revenues by $10,976 relates to the annual rental charge for jointly used buildings which benefit both the Virginia Company and the North Carolina Company. The second adjustment decreasing intrastate revenues by $6,659 relates to an adjustment to eliminate the overaccrual of pole attachment revenues recorded during the test period. Concerning the rental charge adjustment, Mr. Goforth determined the cost of the joint use area of the old and new buildings was $319,255 and that 25% of this area, or $79,814, directly benefits the Company's Virginia operations. He then applied an annual charge rate of 17.596% to this amount and determined that the appropriate annual rental charge for the Virginia operations is $14,044. From this amount Mr. Goforth deducted $2,488, the annual rental charge accrued on the books for the test year, resulting in his total adjustment of $11,556, or $10,976 applicable to intrastate operations. Mr. Goforth testified that the components of the formula which he used in determining his 17.596% annual charge rate consist of maintenance cost, property tax, depreciation, income tax, and the cost of money that relates to the cost of the building. Mr. Goforth further testified that in developing his 17.596% annual charge rate he used a 10% cost of capital rate which was the overall rate of return granted in the Company's last rate case, Docket No. P-40, Sub 134, and a .90% rate for property taxes which was determined by relating actual test-period property tax expense to telephone plant in service at December 31, 1974. Under cross-examination, Mr. Goforth agreed with counsel for the Applicant that for the cost of capital component of the formula he should have used 7.96%, which is the overall cost of capital under present rates on an end-of-period basis, as shown in Goforth Exhibit 1, Schedule 1.

The Commission agrees with the method used by Mr. Goforth in determining his adjustment to rental charges. However, the Commission does not agree with the dollar amount recommended by Mr. Goforth.

The Commission is of the opinion that 9.79% is the overall cost of capital approved by the Commission in this proceeding and should be used as the cost of capital component of the formula. The Commission concludes that

neither the 10% cost of capital rate nor the 7.96% cost of capital rate would be appropriate to use in this proceeding. The Commission is setting rates for the future and the annual charge which the Virginia operation pays to the North Carolina operation should be based on the cost of capital approved in this proceeding. To use a cost of capital rate less than the amount approved in this proceeding would have the effect of requiring the Company's North Carolina subscribers to subsidize the Company's Virginia subscribers, and to use a cost of capital higher than the cost of capital used in this proceeding would have the effect of having the Company's Virginia subscribers subsidize the Company's North Carolina subscribers.

The Commission also believes that the property tax component of the formula should be based on the ratio of 1976 property tax expense to the telephone plant in service at January 1, 1976, because the Commission has used the 1976 property tax expense in determining the appropriate level of operating revenue deduction in this proceeding. When these changes are reflected in the formula used by Staff witness Goforth, the annual charge rate decreases from 17.596% to 16.816% and the total amount of adjustment decreases from $11,556 to $10,933, or $10,384 applicable to intrastate operations.

The second adjustment of $6,659 relates to the annual pole attachment revenues. Staff witness Goforth based his adjustment on a detailed analysis furnished by the Company during the field audit. From the annual amount of $36,102 determined from the analysis, Mr. Goforth deducted $42,761, the annual pole attachment revenues accrued on the books for the test year, resulting in his adjustment of $6,659.

Company witness Byrum's end-of-period level of pole attachment revenues reflect only the amount of $42,761 accrued on the books for the test year. Mr. Byrum did not adjust for the overaccrual.

The Commission is of the opinion that Mr. Goforth's adjustment is proper since he adjusted for the overaccrual of these revenues during the test year. The Commission is setting rates for the future, and these rates should be set based on the level of revenues and expenses which will be experienced when the rates are established in this proceeding.

The Commission concludes that the intrastate end-of-period level of miscellaneous revenues for use in this proceeding is $202,793 ($199,068 + $10,384 - $6,659).

The final item of disagreement between the two witnesses involves the appropriate level of uncollectible operating revenues. Company witness Byrum calculated an uncollectible rate of 1.23% by relating the total uncollectible amount per books to total revenues per books and applied this rate to his end-of-period revenues.

Staff witness Goforth calculated an adjusted uncollectible rate of .88%. In determining his .88% uncollectible rate, Mr. Goforth deducted unbillable tolls in the amount of $24,802 from the uncollectible revenues accrued on the books during the test year. These unbillable tolls had also been included as toll revenue by the Company. This practice had the effect of overstating the Company's actual uncollectible rate. Subsequent to the end of the test period, Norfolk Carolina terminated the practice of recording unbillable tolls as revenues and uncollectibles.

Mr. Goforth also reduced the per books amount of uncollectibles to reflect the revenues recovered by a collection agency. In 1976, Norfolk Carolina placed uncollectible accounts of $210,224 with a collection agency. Through September of 1976, the collection agency had collected $11,095, net of commissions, or 5.28% of these accounts. Mr. Goforth then applied this rate of 5.28% to the Company's uncollectible expense of $99,877, less unbilled test year toll revenues of $24,802, to arrive at excess uncollectibles of $3,964. The excess uncollectible expense of $3,964 and the unbillable tolls of $24,802 were deducted from the Company's per books uncollectible expense of $99,877 to arrive at an adjusted uncollectible expense of $71,111. After deducting these two items, Mr. Goforth determined that the Company's test year uncollectible rate was .88%. He then applied the .88% uncollectible rate to his end-of-period local service revenues of $4,049,338, plus miscellaneous revenues of $214,134, to arrive at uncollectible revenues of $37,519.

The Commission finds that uncollectible operating revenues should be adjusted to an end-of-period level based on the end-of-period local service revenues using the .88% rate of uncollectibles actually experienced during the test period. The Commission has previously determined that end-of-period local service revenues are $4,053,815 and that miscellaneous revenues are $202,793; therefore, the Commission concludes that the appropriate end-of-period level of uncollectible revenues is $37,552.

In summary, the Commission concludes that the appropriate level of operating revenues under present rates is $5,868,267, consisting of local service revenues of $4,053,815, intrastate toll service revenues of $1,649,211, miscellaneous revenues of $202,793 and uncollectible revenues of $37,552.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

Company witness Byrum and Staff witness Goforth presented testimony and exhibits showing the level of intrastate operating revenue deductions which they believed should be used by the Commission for the purpose of fixing Norfolk Carolina's rates in this proceeding.

The following chart shows the amount claimed by each witness:

Item	Company Witness Byrum (a)	Staff Witness Goforth (b)
Operating expenses	$2,275,461	$2,466,839
Depreciation and amortization	945,586	985,378
Taxes - other than income	514,183	603,266
Interest on customer deposits	226	256
Subtotal	3,735,456	4,055,739
Income taxes - State and Federal	420,261	521,513
Annualization adjustment	(26,720)	14,614
Total	$4,128,997	$4,591,866

The first item of difference in operating revenue deductions stated above concerns operating expenses. Company witness Byrum testified that the appropriate level of intrastate operating expenses is $2,275,461 while Staff witness Goforth testified that the appropriate level is $2,466,839, or a difference of $191,378. The $191,378 difference is comprised of the following adjustments made by Staff witness Goforth:

	Item	Amount
1.	Adjustment for 1976 wage increase and retroactive 1975 wage adjustment	$146,101
2.	Adjustment to decrease local traffic expense for effects of charging for directory assistance calls	(4,229)
3.	Adjustment to decrease rent expense for annual pole attachment expenses	20,838
4.	Adjustment to increase relief and pension expense	19,778
5.	Difference resulting from the Company and Staff using different intrastate separation factors	8,890
	Total	$191,378

The Commission has considered the testimony and schedules concerning each of the above adjustments made by Staff witness Goforth. Mr. Goforth did not receive any cross-examination questions concerning any of these adjustments. The commission concludes that all of the above adjustments proposed by Mr. Goforth are proper; however, the Commission notes that the third adjustment of $20,838 listed above is a

decrease in operating expenses but was included as an increase in operating expenses by Mr. Goforth on his Exhibit I, Schedule 3. When operating expenses are adjusted for this error, operating expenses become $2,425,162 and that is the level of operating expenses which the Commission will use for the purpose of setting rates in this proceeding.

The next item of difference in operating revenue deductions stated above concerns depreciation and amortization expense. Staff witness Goforth calculated his end-of-period level of depreciation expense by multiplying each account of telephone plant in service at December 31, 1975, by the depreciation rate applicable to each account. Mr. Goforth then deducted the depreciation expense accrued on the books for the test year from this amount, resulting in an adjustment to increase depreciation expense by $39,792 for intrastate operations.

Company witness Byrum used only the depreciation expense accrued on the books during the test year and increased this amount by the station annualization factor. Mr. Byrum did not make an end-of-period direct calculation.

Since the Commission is setting rates for the future, the method of determining end-of-period depreciation expense used by Staff witness Goforth is more appropriate because it determines the exact amount of annual depreciation expense which the Company will incur in the future on its telephone plant in service at the end of the test year.

The Commission concludes that Staff witness Goforth's adjustment increasing depreciation expense by $39,792 is proper and that the end-of-period level of intrastate depreciation expense is $985,378.

The next difference in operating revenue deductions stated above concerns taxes other than income. Company witness Byrum testified that the appropriate level of intrastate taxes other than income is $514,183 while Staff witness Goforth testified that the appropriate level is $603,266, or a difference of $89,083. The $89,083 difference is comprised of the following adjustments made by Staff witness Goforth:

Item	Amount
1. Adjustment for payroll taxes applicable to 1976 wage increase and retroactive 1975 wage adjustment	$ 8,292
2. Adjustment for gross receipts taxes resulting from direct calculation on end-of-period level of local service and intrastate miscellaneous revenues	79,926
3. Difference resulting from the Company and Staff using different intrastate separation factors	865
Total	$89,083

The Commission has previously accepted Staff witness Goforth's adjustment for the 1976 wage increase and 1975 retroactive wage adjustment; therefore, the Commission accepts the adjustment to payroll taxes of $8,292 associated with the 1976 wage increase and 1975 retroactive wage adjustment.

The next adjustment made by Staff witness Goforth to taxes other than income concerns an adjustment to gross receipts taxes. Both Company witness Byrum and Staff witness Goforth proposed an end-of-period gross receipts tax adjustment resulting from their adjustments to intrastate revenues. The Commission agrees with the method used by the witnesses but it does not agree with the amounts. The amount of end-of-period intrastate revenues found proper by the Commission is different from the amount claimed by either witness; therefore, the Commission will determine the end-of-period level of gross receipts taxes based on end-of-period intrastate revenues subject to the gross receipts tax. Based on this fact, the Commission concludes that the proper level of end-of-period gross receipts taxes is $340,036.

In addition to the adjustments to taxes other than income made by Staff witness Goforth which were discussed above, the end-of-period level of property taxes should be discussed. Neither Company witness Byrum nor Staff witness Goforth made an end-of-period adjustment to property taxes except to apply the primary station annualization factor to the amount accrued on the books during the test year. During the hearing, Mr. Goforth testified on cross-examination that the information was not available to make a direct computation of the end-of-period level of property taxes when he prepared his testimony and exhibit. Mr. Goforth testified that, had the information been available when he prepared his testimony and exhibit, he would have made a direct computation of end-of-period property taxes. During the hearing, evidence was introduced that the actual 1976 property tax expense was $258,115, or $181,152 applicable to intrastate operations.

Since the Commission is setting rates for the future, the Commission concludes tha the actual 1976 property tax is the proper end-of-period level of property tax expense to use in this rate proceeding because the 1976 property taxes are directly associated with telephone plant in service at December 31, 1975, the end of the test period.

The Commission concludes that the end-of-period level of taxes other than income to be used for the purpose of setting rates in this proceeding is $614,254, consisting of payroll taxes of $92,181, gross receipts taxes of $340,036, property taxes of $181,152, and intangible tax of $885.

The next operating revenue deduction upon which the two witnesses are in disagreement is interest on customer deposits. Company witness Byrum included $226, the amount of interest on customer deposits accrued on the books during the test year, while Staff witness Goforth computed an end-of-period level of interest on customer deposits of $256, based on end-of-period customer deposits. The Commission has previously concluded that end-of-period customer deposits should be included as a reduction of the working capital allowance and now concludes that it is proper to include $256 of end-of-period interest on these deposits as an operating revenue deduction with the result that Norfolk Carolina will be allowed to recover only its cost of these customer supplied funds.

The next area of difference in the determination of total operating revenue deductions concerns the amount of test-period State and Federal income tax expense. Although the witnesses used the same statutory tax rates, their resulting tax amounts were not equal due to the different levels of operating revenues and operating revenue deductions claimed by each witness in computing taxable income. These differences in operating revenues and operating revenue deductions have previously been discussed and the Commission does not deem it necessary to recapitulate these differences. The level of State and Federal income taxes found proper by the Commission is different from the amounts presented by either witness in his prefiled testimony; therefore, the Commission will calculate the appropriate level of State and Federal tax expense for use in this proceeding. However, there is one difference between the two witnesses' computations of Federal and State income taxes which should be discussed. This difference is the amount of the deduction for interest expense. Company witness Byrum used the actual amount of interest expense allocated to intrastate operations during the test period, or $830,026. Staff witness Goforth used interest expense of $692,824, which he calculated as the interest expense on the end-of-period debt capital supporting the intrastate original cost net investment which he developed in Goforth Exhibit 1, Schedule 1. The Commission finds that both of these amounts of interest expense are incorrect. Company witness Byrum's interest expense is the actual intrastate amount which was incurred by Norfolk Carolina during the

test period and is therefore not an amount computed on end-of-period debt. Furthermore, Mr. Byrum has overstated his interest expense amount by including interest on debt capital which supports nonrate base assets. It is clearly inappropriate to deduct interest expense on debt which has financed nonrate base assets. The interest expense which should be deducted in determining income taxes and net income for common equity for the purpose of establishing utility rates is the interest expense on the debt which has financed the original cost net investment. Although Staff witness Goforth's method of computing interest expense to be deducted in computing income taxes is correct, the amount which he deducted is not proper because the original cost net investment found by the Commission and the capital structure found reasonable by the Commission are different from the original cost net investment and capital structure used by witness Goforth. The Commission therefore concludes that $722,465, as calculated on Schedule II of this Order, is the proper amount of the interest deduction for use in the calculation of State and Federal income taxes.

The Commission concludes that the proper amount of State income taxes is $66,550 and Federal income taxes is $459,588. The following schedule sets forth the State and Federal income tax calculations.

Line No.	Item	Amount
1.	Calculation of State income tax expense:	
2.	Operating income before income taxes and fixed charges	$1,831,633
3.	Less fixed charges	722,465
4.	State taxable income (L2 - L3)	1,109,168
5.	Tax rate	.06
6.	State income tax expense (L4 x L5)	$ 66,550
7.	Calculation of Federal income tax expense:	
8.	State taxable income (L4)	$1,109,168
9.	Less State income tax expense (L6)	66,550
10.	Federal taxable income (L8 - L9)	1,042,618
11.	Tax rate	.48
12.	Total (L10 x L11)	500,457
13.	Amortization of investment tax credit	29,894
14.	Surtax exclusion (50,000 x 48% - 21%) x (.8129892)	10,975
15.	Federal income tax expense (L12 - L13 - L14)	$ 459,588

The final operating revenue deduction upon which the two witnesses are in disagreement is the annualization adjustment. Company witness Byrum computed an annualization adjustment amount of $26,720 to be added to intrastate net income. Witness Byrum calculated this amount by multiplying the annualization factor of .0203 by the Company adjusted intrastate net operating income. Staff witness Goforth eliminated the annualization adjustment included by Mr.

Byrum. Mr. Goforth calculated an annualization adjustment amount of $14,614 by multiplying the annualization factor of .0203 times operating revenues, operating expenses, and operating taxes not brought to end-of-period levels by direct calculation. The Commission concurs with Mr. Goforth's method of determining the annualization adjustment because the majority of revenues and expenses was brought to an end-of-period level by direct calculation. Only items of revenues and expenses which could not be brought to an end-of-period level by direct calculation were annualized by applying the annualization factor of .0203 to the actual test-period amounts. Mr. Goforth's method results in a more accurate level of end-of-period revenues and expenses. After recognizing the Commission's annualization of property tax expense based on the actual level of 1976 property taxes, instead of applying the annualization factor to actual test-period property tax expense, the Commission concludes that the proper intrastate amount for the annualization adjustment is $11,584, instead of the amount of $14,614 included by Mr. Goforth in his exhibit.

The Commission concludes that the appropriate level of intrastate operating revenue deductions is $4,562,772 which includes operating expenses of $2,425,162, depreciation expense of $985,378, other operating taxes of $614,254, income taxes of $526,138, interest on customer deposits of $256, and an annualization adjustment of $11,584.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 15, 16, 17, AND 18

The Company and the Staff adopted capital structures which were expected to exist on December 31, 1976, each reflecting the anticipated issuance of first mortgage bonds and common stock during 1976. Since the Company did not, in fact, issue bonds or common stock during 1976, the capital structures, as presented by the Company and the Staff, are not proper. The Commission adopts the merged Company's actual capital structure as of December 31, 1975, reflecting intrastate book common equity of $10,786,000.

The capital structure set out in Finding of Fact No. 16 represents a capital structure in which the fair value increment of $1,203,361 has been added to the book common equity of $10,786,000. 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 embedded cost of long-term debt and short-term debt for Norfolk Carolina on December 31, 1975, is 8.20% and 8.50% as shown by Company witness Brennan. The cost rates have been adopted by the Commission. The Commission finds and concludes that the Company's embedded cost of preferred stock is 10.34%, using the method employed by Staff witness Kiltie.

Company witness Brennan recommended a rate of return on equity of 15%, based upon his study of historical price/earnings ratios, market-to-book ratios, and return of equity of "comparable" companies, plus an analysis of general market conditions.

Staff witness Kiltie recommended a return on equity in the range of 13.3% to 13.9%, based upon an adjusted discounted cash flow analysis of a group of telephone operating companies and holding companies which were judged to represent the investment risk of the telephone industry. Witness Kiltie adjusted his findings for the relative risk of the Company and for floatation costs.

Based upon the evidence, the Commission finds and concludes that Norfolk Carolina's cost of book common equity would be 13.6%, assuming that the service provided by the Company had been adequate.

The Commission must also take into account the Company's fair value increment of $1,203,361 and the effect of adding this increment to the book common 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 Company, 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 Norfolk Carolina's equity holders and the protection against inflation which is afforded by the addition of the $1,203,361 fair value increment to the book equity component. Had the Commission found that the Company was providing an adequate level of service, a return of 11.1% on fair value equity would be just and reasonable for the Company. The 11.1% return on fair value common equity and the returns of 8.20% on long-term debt, 8.50% on short-term debt, and 10.34% on preferred stock yield a rate of return on the Company's fair value rate base of 9.45%.

In Finding of Fact No. 7, however, the Company's service was found to be inadequate. The failure of Norfolk Carolina to provide adequate, efficient, and reasonable service is a material factor to be considered in establishing the fair rate of return. The rate of return on fair value rate base granted in this case relative to what the Commission would have granted had the service been adequate will reflect a penalty of .45%. This penalty lowers the return on fair value rate base from 9.45% to 9.0% and reduces by $169,796 the revenues that would have been granted had the service been adequate. The 9.0% return on the fair value rate base granted in this case results in a 9.95% return on fair value common equity.

Because of the further deterioration of the Company's financial condition following its general rate case in 1975, the rates are again being increased in this case. However, the Commission cannot ignore the inadequacies of service offered by the Company to its ratepayers. The Commission believes that the .45% penalty is a minimum that should be prescribed at this time. Norfolk Carolina should take due notice that disregard of the Commission's Orders concerning quality of service cannot be allowed and that unless the Company takes affirmative action to improve the quality of service as directed by this Order, an even greater penalty could result.

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, preferred stock dividends on its outstanding preferred stock, and a substantial dividend on its common stock.

The following schedules show the derivation and application of the findings hereinabove and are to be incorporated as part of those findings:

SCHEDULE I
NORFOLK CAROLINA TELEPHONE COMPANY
DOCKET NO. P-40, SUB 141
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1975

Item	Present Rates (a)	Increase Approved (b)	After Approved Rates (c)
Operating Revenues			
Local service	$4,053,815 1/	$529,435	$4,583,250
Toll service	1,649,211		1,649,211
Miscellaneous	202,793		202,793
Uncollectibles	(37,552)	(4,659)	(42,211)
Total operating revenues	5,868,267	524,776	6,393,043
Operating Expenses			
Maintenance	973,125		973,125
Traffic	443,974		443,974
Commercial	292,842		292,842
Revenue accounting	149,811		149,811
General office and other expenses	338,462		338,462
Operating rents	37,080		37,080
Relief and pensions	179,232		179,232
Rate case expenses	10,636		10,636
Total operating expenses	2,425,162		2,425,162
Depreciation and amortization	985,378		985,378
Taxes-other than income	614,254	31,486	645,740
State income tax	66,550	29,597	96,147
Federal income tax	459,588	222,573	682,161
Interest on customer deposits	256		256
Annualization adjustment	11,584		11,584
Total operating revenue deductions	4,562,772	283,656	4,846,428
Net operating income for return	$1,305,495	$241,120	$1,546,615

1/ Includes an amount of $15,587 to be derived from charging for directory assistance calls.

Investment in Telephone Plant			
Telephone plant in service	$21,248,194		$21,248,194
Less: Accumulated provision for depreciation	5,524,649		5,524,649
Net investment in telephone plant in service	15,723,545		15,723,545
Allowance for Working Capital			
Cash	203,084		203,084
Materials and supplies	127,575		127,575
Average prepayments	7,313		7,313
Compensating bank balance	201,910		201,910
Less: Average tax accruals	(266,869)		(266,869)
Customer deposits	(15,311)		(15,311)
Total allowance for working capital	257,702		257,702
Net investment in telephone plant in service plus allowance for working capital	$15,981,247		$15,981,247
Fair value rate base	$17,184,608		$17,184,608
Rate of return on fair value rate base	7.60%		9.00%

SCHEDULE II
NORFOLK CAROLINA TELEPHONE COMPANY
DOCKET NO. P-40, SUB 141
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED DECEMBER 31, 1975

	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Income
	Present Rates - Fair Value Rate Base			
Capitalization				
Long-term debt	$ 7,766,886	45.20	8.20	$ 636,885
Short-term debt	1,006,819	5.86	8.50	85,580
Preferred stock	1,662,050	9.67	10.34	171,856
Common equity				
Book $5,353,717				
Fair value increment 1,203,361	6,557,078	38.16	6.27	411,174
Cost-free capital	191,775	1.11	-	-
Total	$17,184,608	100.00	-	$1,305,495
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 7,766,886	45.20	8.20	$ 636,885
Short-term debt	1,006,819	5.86	8.50	85,580
Preferred stock	1,662,050	9.67	10.34	171,856
Common equity				
Book $5,353,717				
Fair value increment 1,203,361	6,557,078	38.16	9.95	652,294
Cost-free capital	191,775	1.11	-	-
Total	$17,184,608	100.00		$1,546,615

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Norfolk Carolina develops a cost separations study annually for the primary purpose of conducting toll settlements on an actual cost basis. The Company's study, including basic traffic factors, is prepared by the consulting firm of John Staurulakis, Inc. Prior to July 1, 1975, each study was reviewed and approved for settlements

by the Chesapeake & Potomac Telephone Company of Virginia (C & P), a Bell System operating company. Beginning July 1, 1975, this function was assumed by Southern Bell. For rate case purposes, the Company used the most recent study available (for the 12 months' period ending June 30, 1975) which had not received final approval from C & P as a basis for developing separation factors which were used to determine the test year level of intrastate operations.

Staff witness Gerringer stated that the cost separations study used by the Company was revised prior to final approval by C & P. Witness Gerringer proposed that separation factors be calculated using the revised study.

The Commission concludes that the separation factors proposed by witness Gerringer are proper in that they are based on a more accurate cost separations study agreed to by both the Company and C & P.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

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 charging for directory assistance inquiries is 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 $9,401 and increased revenues of $15,587.

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. This D.A. plan is considered experimental until further order relating to this service and until a statewide D.A. charging plan is adopted for all regulated telephone companies in North Carolina.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

W. C. Meekins, Jr., Secretary-Treasurer and Commercial Manager of Norfolk Carolina, testified regarding the changes proposed in the Applicant's rate schedules. Mr. Meekins presented and supported basic local rates structured according to rate groups based upon local calling scope. Mr. Meekins proposed to increase the ratios between business and residence rates, key trunk and individual line rates, and PBX trunk and individual line rates. In the area of zone charges, Mr. Meekins proposed changes which would produce a 53% reduction in zone charge revenue. The changes included expansion of the base rate areas of three exchanges, establishment of uniform zone boundaries, and a general reduction of zone charges for all exchanges. Other proposals of Mr. Meekins included elimination of color charges, establishment of a flat rate for semipublic service, and changes in rates for several items of miscellaneous service and equipment.

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. Mr. Carpenter also supported an adjustment to nonrecurring charge revenues.

In the area of basic local rates, Mr. Carpenter stated that in his opinion the group sizes and group differentials proposed by the Company were reasonable. Mr. Carpenter stated that a flat rate for semipublic service slightly below the individual line rate should be considered. Mr. Carpenter presented a revised service charge format which he recommended as more equitable than the format used by the Applicant. Mr. Carpenter stated his support for increases in service charges under that schedule to a level more closely based on costs.

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 recommended that the proposal be implemented on a trial basis in order to determine whether or not a reasonably efficient procedure could be developed. He stated that due to the manual billing operations he expected some additional expense to be incurred. Other changes proposed by Mr. Carpenter included a change in the basis for rating local private line and tie line mileage and changes in rates for some miscellaneous items.

Mr. Carpenter testified that he had reviewed the Company's proposal for base rate area expansion and believed the proposal to be reasonable. Mr. Carpenter recommended that, due to the usual effects which zone charge reductions have in prompting requests for new service and regrades and in requiring additional investment, reduction in zone charge revenue be limited to an amount substantially less than what the Company had proposed.

Mr. Carpenter also testified concerning an adjustment to nonrecurring charge revenues which was necessary because of several changes in the level of service charges during the test period and in February 1976 and because of growth in the revenue account during the test period.

Based on the testimony and exhibits of Mr. Meekins and Mr. Carpenter, the Commission reaches the following conclusions with regard to the rates and charges to be approved for Norfolk Carolina 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 2.5 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 and key trunks should be increased so that they will more nearly reflect relative value of service and relative costs.

(c) The Commission concludes that rate groups based upon local calling scope should be established for basic local services.

2. Zone Charges

After consideration of the findings of the Commission Staff relative to the quality of service offered by the Company, the Commission concludes that the proposed reductions in zone charges are excessive and may lead to additional requests for regrades and new installations which will complicate the Company's efforts to correct existing problems. However, the Commission believes the base rate area expansions proposed by the Company and the proposal to establish uniform zone boundaries for individual line and two- and four-party service are reasonable and that the resulting reduction in zone charges will not adversely hamper service improvement efforts. Therefore, the Commission concludes that the proposals for base rate area expansion and establishment of uniform zone boundaries should be approved and reductions in zone charges other than those involved in these proposals should be denied.

3. Service Charges

The Commission concludes that Norfolk Carolina's 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 proposed by the Staff with the exception of the provision relating to the time payment option. The Commission believes that implementation of that provision should be deferred until the practicality of offering the provision in a manual billing operation can be determined.

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.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Norfolk Carolina 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 $545,022, which includes revenues of $15,587 to be derived from directory assistance charges (based upon stations and operations as of December 31, 1975) as hereinafter set forth in Appendices A, B, and C.

2. That the rates, charges, and regulations set forth in Appendices A, B, and C attached hereto which will produce, based upon stations and operations as of December 31, 1975, additional gross revenues of approximately $545,022 be, and hereby are, approved to be charged and implemented by the Applicant, effective on all bills rendered beginning within 30 days after the date of this Order except as noted hereinafter.

3. That the Applicant shall file the necessary revised tariffs and maps reflecting the changes in rates, charges, and regulations shown in Appendices A and B within seven days and 15 days, respectively, from the date of this Order. Revised tariffs reflecting the provisions in Appendix C shall be filed 30 days prior to the effective date of said provisions.

4. That Norfolk Carolina is authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of this Order and after the NOTICE attached as Appendix D is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. That Norfolk Carolina shall within 30 days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix D, 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 Norfolk Carolina shall place in its telephone directories the directory information included in Appendix D relating to directory assistance charges.

5. That the Company take action which will result in full compliance with the Commission's service objectives and that the Company fully develop its traffic and central office engineering programs.

6. That the Commission Staff follow up and determine that the Company is taking appropriate action which will result in compliance with the service objectives and in efficient traffic and central office engineering.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of March, 1977.

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

APPENDIX A
NORFOLK CAROLINA TELEPHONE COMPANY
DOCKET NO. P-40, SUB 141

BASIC LOCAL SERVICE

Exchange Rate Groups
Monthly Flat Rates

Group	Main Stations and Equivalents	Residence Ind.	Residence 2-Pty.	Residence 4-Pty.	Business Ind.	Business 2-Pty.	Business 4-Pty.
1	0- 2,000	7.60	6.65	5.65	17.40	15.50	14.50
2	2,001- 4,000	8.00	7.05	6.05	18.40	16.50	15.50
3	4,001- 8,000	8.40	7.40	6.50	20.00	18.00	17.00
4	8,001-16,000	8.90	7.80	7.00	21.70	19.50	18.50
5	16,001-32,000	9.40	8.20	7.55	23.40	21.50	20.50

Exchange	Applicable Rate Group	Exchange	Applicable Rate Group
Buxton	1	Piney Woods	5
Coinjock	5	Shiloh	5
Edenton	5	South Mills	5
Elizabeth City	5	Sunbury	5
Hertford	5	Waves	1
Kill Devil Hills	2	Weeksville	5
Mamie	5	Welch	5
Manteo	2	Woodville	5
Moyock	5		

Note: For the remainder of Appendix A and Appendices B, C, and D, see the official Order in the Office of the Chief Clerk.

DOCKET NO. P-70, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of North Carolina Telephone Company for Authority to Increase its Rates and Charges in its Service Area Within North Carolina) ORDER SETTING RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 1, 1977, at 10:00 A.M.

BEFORE: Commissioner W. Lester Teal, Jr., Presiding; and Commissioners Ben E. Roney and W. Scott Harvey

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602

B. Irvin Boyle, Boyle, Alexander & Hord, Attorneys at Law, 623 Law Building, Charlotte, North Carolina 28202

For the Attorney General:

Robert P. Gruber, Special Deputy, North Carolina Department of Justice, Post Office Box 829, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

For the Commission Staff:

Maurice W. Horne, Deputy Commission Attorney, and Theodore C. Brown, Jr., Assistant Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 31, 1976, North Carolina Telephone Company (hereinafter N.C. Telephone, Company, or Applicant) filed an application for authority to adjust and increase its rates and charges by approximately $749,276 in additional annual gross revenues. N.C. Telephone proposed that the rate schedule be allowed to go into effect on or after October 1, 1976, without suspension. The Applicant filed testimony and exhibits along with and in support of its application.

On September 27, 1976, the Commission issued an Order Setting Investigation and Hearing, Suspending Proposed Rates and Requiring Public Notice. In the Order the Commission set the matter for public hearing to begin on February 1, 1977, 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 N.C. Telephone publish in newspapers the Notice of Hearing attached to the Commission's Order and mail by bill insert the same Notice of Hearing to all its customers. The Notice set forth the proposed increase, reflected the beginning date of public hearing, and informed the public of the manner by which comments or testimony could be received at the public hearing.

On November 30, 1976, the Attorney General filed Notice of Intervention and the same was recognized by the Commission by Order dated December 1, 1976.

The public hearing in this matter began on February 1, 1977.

The Applicant presented the testimony of the following witnesses: John D. Russell, Executive Vice President, Associated Utility Services, Inc., as to replacement cost; Joseph F. Brennan, President, Associated Utility Services, Inc., as to cost of capital and fair rate of return; F. D. Rowan, Regional Controller, Mid-Continent Telephone Service Corporation, as to accounting, capital structure and fair value; R. D. Bonnar, Vice President - Controller of Mid-Continent Telephone Corporation, as to affiliated relationships and service agreements; and Philip L. Hamrick, President and Director of North Carolina Telephone Company, as to service objectives, growth, financing, rate design, and corporate relationships.

The Commission Staff offered the testimony of the following witnesses: James S. Compton, Telephone Engineer, regarding quality of service; Gene A. Clemmons, Chief, Telephone Service, as to prices paid for purchases made by N.C. Telephone from its affiliated supplier, Buckeye Telephone and Supply Company; Vern W. Chase, Chief, Telephone Rate Section, regarding directory assistance; Millard Carpenter, Telephone Engineer, as to review of the proposed rate design and Staff recommendations; Hugh L. Gerringer, Toll Settlement Engineer, regarding separations and toll settlements; E. Thomas Aiken, Staff Accountant, as to review of the Company's books and accounting recommendations; Eugene H. Curtis, Jr., Operations Engineer, as to review of the Company's proposed replacement cost and fair value; and Edwin A. Rosenberg, Operations Analyst, as to rate of return and cost of capital.

The Attorney General presented two public witnesses: Richard Morris and Eleanor Morris, who testified concerning service.

Following the receipt of such testimony and exhibits, briefs and oral arguments were waived.

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

FINDINGS OF FACT

1. That North Carolina Telephone Company is a duly franchised public utility providing telephone service to its subscribers in North Carolina 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 of the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That N.C. Telephone was incorporated under the laws of the State of North Carolina as the Matthews and Waxhaw Telephone Company in July 1950 and in the same month acquired the physical plant and franchise of the Matthews and Waxhaw Exchanges of the United Telephone Company of the Carolinas, Inc. In 1954 it adopted its present name. In December of 1954 the Company acquired all of the outstanding stock of the Anson Telephone and Telegraph Company of Wadesboro, North Carolina, which was merged into the Company on July 1, 1955. In September 1955, the Company acquired the franchise and physical plant of the Wingate Telephone Company, Wingate, North Carolina. In October 1956, the Norwood and Marshville, North Carolina, exchanges of the United Telephone Company of the Carolinas, Inc., were acquired. In June 1961, the Company acquired all of the outstanding stock of the Pinebluff Telephone Company, Inc., Pinebluff, North Carolina, and in November 1961, it acquired all of the outstanding stock of the Laurel Hill Telephone Company, Laurel Hill, North Carolina. These two companies were operated as wholly-owned subsidiaries of the Company until July 1, 1965, at which time they were merged with the Company. In December 1968, the Lilesville Telephone Company, Lilesville, North Carolina, was acquired and merged into the Company.

3. That N.C. Telephone with headquarters in Matthews, North Carolina, serves approximately 9,610 stations through 15 exchanges in an area of 1,325 square miles located in six counties in North Carolina.

4. That the present proceeding is the first general rate increase application filed by N.C. Telephone since June 1, 1972 (Docket No. P-100, Sub 34 reduced rates).

5. That there is no excess plant investment reflected from the record in this case.

6. That the overall quality of service provided by N.C. Telephone to its customers is adequate. Nonetheless, there is evidence of inconsistent quality which should be subject to further requirements of this Order.

7. 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 April 30, 1976.

8. That the annual increase in rates and charges sought by the Applicant is $749,276.

9. That the original cost of N.C. Telephone's intrastate telephone plant in service used and useful in the provision of telephone service is $21,280,070. The accumulated depreciation associated with this telephone plant in service is $4,896,359. N.C. Telephone's original cost of intrastate net telephone plant in service is $16,383,711.

10. That the reasonable replacement cost less depreciation of N.C. Telephone's plant used and useful in providing intrastate telephone service in North Carolina is $22,288,931.

11. That the fair value of N.C. Telephone's plant used and useful in providing intrastate telephone service in North Carolina should be derived by giving 80% weighting to the reasonable original cost less depreciation of N.C. Telephone's plant in service and 20% weighting to the replacement cost less depreciation of N.C. Telephone's plant. The fair value of N.C. Telephone's utility plant devoted to intrastate telephone service is $17,564,755. This value is calculated by 1/5 weighting being given the net replacement cost of $22,288,931 and 4/5 weighting being given the net original cost of $16,383,711. This fair value includes a reasonable fair value increment of $1,181,044.

12. That the reasonable allowance for working capital for N.C. Telephone is $27,388.

13. That the fair value of N.C. Telephone's plant in service to its customers within the State of North Carolina at the end of the test year of $17,564,755 plus the reasonable allowance for working capital of $27,388 yields a reasonable fair value of N.C. Telephone's property in service to North Carolina customers of $17,592,143.

14. That the appropriate gross intrastate revenues net of uncollectibles for N.C. Telephone for the test period are $4,963,306 and under the Company's proposed rates would have been $5,703,848.

15. That the level of N.C. Telephone's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $3,893,284, which includes the amount of $1,076,132 for actual investment currently consumed through reasonable actual depreciation.

16. That the rate of return on the fair value of the intrastate investment of the Company (rate base) upon which rates and charges should be based is 7.70% which is just and reasonable.

17. That N.C. Telephone should be allowed to adjust its rates and charges so as to produce $633,149 in additional annual gross revenues in order for the Company to have an opportunity through efficient management to earn the rate of return on the fair value of its property which the Commission has found to be reasonable and fair.

18. That the schedule of rates, charges, and regulations included in Appendices A, B, and C of this Order is found to be just and reasonable.

19. 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.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, 3, 4, 7, AND 8

The evidence for these findings is contained in the verified application, the Order setting hearing, the testimony of Company witness Hamrick, G.S. 62-133, and previous Commission Orders in this and prior dockets. These findings are essentially informational, procedural, and jurisdictional in nature and were not contested during the presentation of evidence herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence relating to the possibility of excess plant consisted of the direct testimony of Staff witness Compton. Witness Compton testified he reviewed central office equipment additions and outside cable construction during the test year and found no evidence to indicate excess plant margins.

Based on the evidence of record, the Commission concludes that an adjustment for excess plant is not necessary in this case.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence as to the quality of telephone service provided by North Carolina Telephone Company which appears in this record consists of the testimony of Company witness Hamrick, Staff witness Compton, and two public witnesses from the Matthews Exchange.

Mr. Hamrick testified that N.C. Telephone was continuously striving to improve service to its customers in all areas. He cited community feedback, low trouble reports, companywide maintenance programs and supervisory follow-up, and new construction as reasons for his opinion that service was good. In his testimony, Mr. Hamrick states that the Company does continuing service analysis but did not perform specific service analysis for the current rate case. Mr. Hamrick stated that he does not take exception to the basic findings of Staff witness Compton. Witness Hamrick further stated that the Company would attempt to improve the problem areas pointed out in the Staff's testimony.

The two public witnesses from Matthews complained of long distance difficulties, noise, difficulty in hearing, calls that could not be completed, misdirected calls, frequently getting busy tone before completing dialing, double connections, wet weather making their phones not work, cutoffs in the middle of conversations, trouble getting the

operator (Matthews Exchange, Southern Bell - Charlotte) to assist them, reporting troubles to the telephone company did no good, and service is really quite poor.

Mr. Compton testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by N.C. Telephone. He testified that the Staff's evaluation was based on results of field tests conducted in the exchanges of N.C. Telephone. The witness testified that the Staff's evaluation consisted of call completion tests, transmission and noise measurements, pay station tests, operator answer time tests, analysis of customer trouble reports, service orders, and subscriber held orders. Witness Compton's exhibits of testing show great variation in results. Some exchanges showed no failures and others were very high over the objectives. Waxhaw, New Salem, Pine Bluff, and Indian Trail were over the objective levels for intraoffice tests, by as much as 50% over the objectives. The same is true of Indian Trail, Peachland-Polkton, Norven, Laurel Hill, and Matthews for EAS (interoffice) tests. The DDD test also showed that Indian Trail, Marshville, Norwood, Norven, and Wadesboro merit the same profile. The operator answer showed an erratic variation depending on which dates the tests were made. Even though the average is well within the limit, the test results on half of the trips were over the objective. The repair service answering was all over the objectives for each trip. Witness Compton related discussions with those who have written complaint letters and stated that 26 of the 36 letters dealt with service complaints. Witness Compton indicated that business customers indicated varying degrees of difficulty with telephone service and these felt that their telephone service could be improved. Witness Compton stated that he made several residence interviews and those customers stated that they did not always report telephone service difficulties.

The Commission takes note of the similarity of public witness Morris' statement that "they (troubles) appear for a little while and then they go away" and Staff witness Compton's exhibits of test results. The Commission is of the opinion that the subscriber complaints and the Staff's test results are directly related and indicate a quality of service that is erratic; acceptable during some periods of time and unacceptable at other times. N.C. Telephone and its parent, Mid-Continent, should realize that continuation of recurring and persistent service problems will be cause for the Commission to initiate further service hearings.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Rowan and Staff witness Aiken presented different amounts for telephone plant in service and its associated accumulated depreciation as follows:

Item	Company Witness Rowan	Staff Witness Aiken
Original cost of telephone plant in service	$21,204,004	$21,280,070
Less: Accumulated depreciation	4,844,539	4,896,359
Net original cost of plant in service	$16,359,465	$16,383,711

Both witnesses agreed that N.C. Telephone's total amount of telephone plant in service at the end of the test year was $24,855,239; however, the witnesses disagreed as to the appropriate amount of telephone plant in service applicable to intrastate operations. As can be seen in the chart above, the amount determined by Staff witness Aiken is $76,066 greater than the amount determined by Company witness Rowan. The different amounts of intrastate telephone plant in service found by the two witnesses result exclusively from the use of different intrastate allocation factors. Company witness Rowan determined the amount of intrastate telephone plant in service by allocating total telephone plant in service to intrastate operations by utilizing a composite intrastate allocation factor of 85.31%, while Staff witness Aiken allocated total telephone plant in service to intrastate operations by applying a separate intrastate allocation factor to each individual telephone plant account. The allocation factors which Mr. Aiken used were developed by Staff witness Gerringer. The Commission has previously concluded that Staff witness Gerringer's intrastate allocation factors developed for allocating total telephone plant in service to intrastate operations are proper.

The witnesses also disagreed on the proper amount of accumulated depreciation to be deducted from the cost of intrastate telephone plant in service in determining net intrastate telephone plant in service. Company witness Rowan deducted the actual balance in accumulated depreciation as shown on the books at the end of the test year in the amount of $4,844,539, after allocation to intrastate operations. Staff witness Aiken increased this amount by $51,820, to reflect the effect of his end-of-period adjustment to depreciation expense and the effect of using a different intrastate allocation factor to allocate the accumulated depreciation to intrastate operations. The factor was developed by Staff witness Gerringer.

On February 1, 1977, all parties in this proceeding signed a stipulation accepting the intrastate portions of original cost net investment of N.C. Telephone's plant and the intrastate portions of the operating revenues, operating expenses, income taxes, and net operating income for return for the test year ended April 30, 1976, under present rates and under the proposed rates as shown in Staff witness Aiken's testimony and exhibit. Since all parties in this

proceeding have stipulated to witness Aiken's amount of original cost net investment, the Commission concludes that the original cost net investment of $16,383,711, consisting of telephone plant in service of $21,280,070 less accumulated depreciation of $4,896,359 as proposed by witness Aiken, is the proper amount to use for the purpose of setting rates in this proceeding and an in-depth discussion of the issues causing the difference between Company witness Rowan and Staff witness Aiken is unnecessary.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10, 11, AND 13

Company witness Russell, a consultant to North Carolina Telephone Company, testified with respect to his determination of the net trended original cost valuation of N.C. Telephone's North Carolina properties used and useful in furnishing telephone service as of April 30, 1976. Witness Russell calculated his net trended original cost by computing a surviving investment, a reproduction cost new, a replacement cost which corrects plant in service for economies of scale, and a condition percent based on an 8% present worth analysis for calculating accrued depreciation. Witness Russell calculated his replacement cost less depreciation and provided the value to Company witness Rowan. Witness Rowan added in the working capital to the intrastate portion of this net replacement cost and called the result fair value rate base.

Staff witness Curtis agreed with the reproduction cost new and replacement cost as calculated by Company witness Russell. There was a difference of opinion as to the value of accrued depreciation to be deducted from replacement cost. Witness Curtis calculated a condition percent based on book reserve in figuring the accrued depreciation. Witness Curtis used a condition percent based on the book reserve for calculating accrued depreciation and the Commission concurs that this is appropriate.

The Commission concludes that the reasonable replacement cost less depreciation of N.C. Telephone's telephone plant in service at April 30, 1976, is $22,288,931.

Having determined the appropriate original cost of net investment in intrastate plant to be $16,383,711 and the reasonable estimate of net replacement cost of that plant to be $22,288,931, the Commission must determine the fair value of N.C. Telephone's net plant in service.

The Commission concurs that a weighting of 80% be given the net original cost and a weighting of 20% be given the net replacement cost. By weighting the $16,393,711 by 80% and the $22,288,931 by a 20% factor, the fair value of N.C. Telephone's utility plant devoted to intrastate telephone service in North Carolina is $17,564,755. This fair value includes a reasonable fair value increment of $1,181,044.

The fair value of N.C. Telephone's plant in service to its customers within the State of North Carolina at the end of the test year of $17,564,755 plus the reasonable allowance for working capital of $27,388 yields a reasonable fair value of N.C. Telephone's property in service to North Carolina customers of $17,592,143.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Rowan and Staff witness Aiken each presented a different amount for the working capital allowance as shown by the comparison below:

Item	Company Witness Rowan	Staff Witness Aiken
Cash (1/12 of operating expenses)	$154,845	$154,193
Materials and supplies	127,659	127,279
Average prepayments	14,028	14,210
Average tax accruals	(244,603)	(249,398)
Customer deposits	(13,284)	(18,896)
	$ 38,645	$ 27,388

There is a difference of $11,257 in the working capital allowance of Company witness Rowan and Staff witness Aiken. This difference is comprised of the following:

1.	Difference in cash resulted from adjustments to operating expenses and the Company and Staff witnesses using different intrastate allocation factors	($ 652)
2.	Difference in materials and supplies resulted from the Company and Staff witnesses using different intrastate allocation factors	(380)
3.	Difference in average prepayments resulted from the Company and Staff witnesses using differennt intrastate allocation factors	182
4.	Difference in average tax accruals resulted from the Company and Staff witnesses using different intrastate allocation factors	(4,795)
5.	Difference in customer deposits resulted from the Company and Staff witnesses using different intrastate allocation factors	(5,612)
	Total	($11,257)

On February 1, 1977, all parties in this proceeding signed a stipulation accepting the intrastate portions of original cost net investment of N.C. Telephone's plant and the intrastate portions of the operating revenues, operating

expenses, income taxes, and net operating income for return for the test year ended April 30, 1976, under present rates and under the proposed rates as shown in Staff witness Aiken's testimony and exhibit. Since all parties in this proceeding have stipulated to witness Aiken's amount of original cost net investment, the Commission concludes that the allowance for working capital of $27,388 as proposed by witness Aiken is the proper amount to use for the purpose of setting rates in this proceeding and an in-depth discussion of the issues causing the difference between Company witness Rowan and Staff witness Aiken is unnecessary.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

Company witness Rowan, Staff witness Gerringer, and Staff witness Aiken presented testimony concerning the appropriate end-of-period level of intrastate operating revenues. Staff witness Gerringer presented testimony concerning N.C. Telephone's toll settlements with Southern Bell Telephone and Telegraph Company and the Company's appropriate end-of-period level of intrastate toll revenues. The end-of-period toll revenue amount determined by Staff witness Gerringer was included by Staff witness Aiken in his testimony and exhibit. Company witness Rowan and Staff witness Aiken each testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Rowan	Staff Witness Aiken
Local service revenues	$3,519,382	$3,528,521
Toll service revenues	1,340,506	1,373,579
Miscellaneous operating revenues	152,819	95,352
Uncollectibles	(58,433)	(34,146)
	$4,954,274	$4,963,306

There is a difference of $9,032 in the operating revenues presented by Company witness Rowan and Staff witness Aiken as may be observed from the above comparison. This difference is comprised of the following:

1.	Adjustment increasing local service revenue resulting from Company's computing subscriber station revenues based on data later found to be inaccurate	$ 2,643
2.	Adjustment increasing local service revenue for effect of charging for directory assistance calls	6,496
3.	Adjustment to bring toll service revenue to an end-of-period level as provided by Staff witness Gerringer, adjusted for accounting and pro forma adjustments made by Staff witness Aiken	33,073
4.	Adjustment to exclude interexchange toll revenues from miscellaneous revenues	(54,080)
5.	Adjustment to decrease miscellaneous revenues as a result of annualizing revenue to be received under a new extended area service agreement contract	(3,387)
6.	Difference in uncollectibles resulted from the Company and Staff witnesses using different intrastate allocation factors	24,287
	Total	$ 9,032

On February 1, 1977, all parties in this proceeding signed a stipulation accepting the intrastate portions of original cost net investment of N.C. Telephone's plant and the intrastate portions of the operating revenues, operating expenses, income taxes, and net operating income for return for the test year ended April 30, 1976, under present rates and under the proposed rates as shown in Staff witness Aiken's testimony and exhibit. Since all parties in this proceeding have stipulated to witness Aiken's amount of operating revenues, the Commission concludes that operating revenues of $4,963,306 as proposed by witness Aiken is the proper amount to use for the purpose of setting rates in this proceeding and an in-depth discussion of the issues causing the difference between Company witness Rowan and Staff witness Aiken is unnecessary.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Company witness Rowan and Staff witness Aiken 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 rates in this proceeding for North Carolina Telephone Company. The following comparison shows the amounts claimed by each witness:

Item	Company Witness Rowan	Staff Witness Aiken
Operating expenses	$1,858,139	$1,849,187
Depreciation and amortization	1,074,587	1,079,157
Other operating taxes	525,703	525,276
Income taxes - State and Federal	400,898	438,530
Interest on customer deposits	-	1,134
Total operating revenue deductions	$3,859,327	$3,893,284

Company witness Rowan testified that the appropriate level of operating revenue deductions was $3,859,327 while Staff witness Aiken testified that the appropriate level was $3,893,284, or a difference of $33,957. The $33,957 difference is comprised of the following adjustments made by Staff witness Aiken:

	Item	Amount
1.	Adjustment to end-of-period depreciation on vehicles and other work equipment charged to maintenance expense	$ (609)
2.	Adjustment to traffic expense for effect of expenses associated with new traffic engineering department	17,279
3.	Adjustment to traffic expenses for the effect of new operator office agreement and for the effect of instituting directory assistance charges	(9,931)
4.	Adjustment to increase rate case expense	2,016
5.	Adjustment to decrease insurance expense	(15,821)
6.	Adjustment to decrease audit fees	(24,767)
7.	Adjustment to other operating expenses to reflect a new extended area service settlement agreement with Southern Bell	(1,304)
8.	Adjustment to decrease property taxes	(19,875)
9.	Adjustment to increase gross receipts tax	18,262
10.	Adjustment to record interest on customer deposits	1,134
11.	Difference in operating revenue deductions resulting from the Company and Staff using different intrastate allocation factors	29,941
12.	Increase in State and Federal income taxes resulting from differences listed in items 1 through 11 and the difference in interest expense used by the two witnesses	37,632
		$ 33,957

On February 1, 1977, all parties of this proceeding signed a stipulation accepting the intrastate portions of original cost net investment of N.C. Telephone's plant and the intrastate portions of the operating revenues, operating expenses, income taxes, and net operating income for return for the test year ended April 30, 1976, under present rates and under the proposed rates as shown in Staff witness Aiken's testimony and exhibit. Since all parties in this proceeding have stipulated to witness Aiken's amount of operating revenue deductions, the Commission concludes that the operating revenue deductions of $3,893,284, consisting of operating expenses of $1,849,187, depreciation and

amortization of $1,079,157, other operating taxes of $525,276, State and Federal income taxes of $438,530, and interest on customer deposits of $1,134 as proposed by witness Aiken, is the proper amount to use for the purpose of setting rates in this proceeding and an extended discussion of the issues causing the difference between Company witness Bowan and Staff witness Aiken is unnecessary.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Two witnesses were presented in the area of cost of capital/fair rate of return. The Company offered Joseph F. Brennan, President of Associated Utility Services, Inc.; Edwin A. Rosenberg, an economist in the Operations Analysis Section, was presented by the Staff. Each witness testified as to the results of a study which he made to determine the cost of capital to the Company and, based on his study, made a recommendation to the Commission as to a reasonable return on the capital invested in the Company. Both witnesses testified that the cost of capital, while the most important aspect, was not the only factor in the determination of the fair rate of return. Mr. Rosenberg cited the excess of fair value over the net original cost investment and factors relating to the efficiency of operation within the Company. Mr. Brennan stressed the effects of attrition and regulatory lag on the fair rate of return as contrasted with the cost of capital. He also noted the effects of the fair value increment and recommended a return on fair value rate base assuming .84 and .16 weighting for net and trended original cost investment figures, respectively, as supplied by the Company.

Both Mr. Brennan and Mr. Rosenberg start their studies by stating the criteria which a fair rate of return must meet as enunciated in G.S. 62-133 and in various decisions of the Courts. A fair rate of return is one which allows a utility to satisfy the requirements of its investors and its customers on a continuing basis at the lowest possible rate of return. Each witness recommended a rate of return which he considered to meet the above standard.

The final recommendations of the overall cost of capital to the Company were 8.26% by Mr. Rosenberg and 8.87% by Mr. Brennan. (These figures used for comparison are based on original cost net investment because the assumed fair value rate base used by Mr. Brennan differs from that adopted.) The reasons for the differing recommendations by the two witnesses may be found in the choice of slightly different capital structures and in different estimates of the cost of equity to the Company. Mr. Brennan used the projected year-end 1976 capital structure while Mr. Rosenberg used the end of test year values. Because the differences between the two were minimal and because the test-period ratios reflect actual conditions, the test-period figures, as used by Mr. Rosenberg and Mr. Aiken of the Accounting Staff, will be

adopted for use in this case. The net original cost capital structure is:

Class of Capital	% of Total
Long-term Debt	47.64%
Preferred Stock	28.16%
Cost-free Capital	7.13%
Common Equity	17.07%
Total	100.00%

When the excess of the fair value of the Company's property used and useful at the end of the test year over and above the original cost of such property or the fair value increment of $1,181,044 (as determined in Finding of Fact No. 11, supra) is added to the original cost or actual capital structure, the resulting fair value capital structure is as follows:

Class of Capital	% of Total
Total Debt	44.44%
Preferred Stock	26.27%
Common Equity	22.64%
Cost-free Capital	6.65%
Total	100.00%

The embedded cost rates for the long-term debt and preferred stock used by both witnesses were 7.33% and 7.49%, respectively, and will be adopted herein.

The difference between the two witnesses' recommendations in the area of the cost of common equity was not slight. Mr. Brennan recommended a return on common equity of 20% as compared with Mr. Rosenberg's recommended return of 15.6%. In arriving at his recommendation, Mr. Brennan studied the achieved returns of regulated and nonregulated firms, the spread between debt and equity returns, relative earnings price ratios, Discounted Cash Flow analysis, relative risk measures, and the effect of the relatively low equity ratio of the Company on the cost of equity. Mr. Rosenberg applied the Discounted Cash Flow technique to a group of 13 telephone utilities and telephone holding companies and adjusted his result for the low equity ratio of the Company.

The recommendation of Mr. Brennan seems inappropriate and beyond the zone of reasonableness. He attempted to measure the cost of equity by the earnings price ratio, although he stated that the earnings price ratio is less than the total cost of equity because it ignores the growth factor. This use of the earnings price ratio is rejected. There is no substantiation other than Mr. Brennan's assertion that this ratio is in fact a reliable measure of the cost of equity capital. If that were the case, the earnings price ratios during the 1960's for the Company's parent, Mid-Continent

Telephone Corporation, would have led to the conclusion that its cost of equity was as low as 4%. Such a figure cannot now be presented as the cost of equity nor would it have been presented as such at the time. Mr. Brennan acknowledged that, at times, this ratio ignores the growth component and may understate the total cost of equity. Because Mr. Brennan did not adequately demonstrate how the inclusion of growth rates in his analysis of earnings price ratio would affect the estimated cost of equity even though he stated that they would have an effect, we must reject his use of this technique in this case. If a technique is known to be often in error, the results of a study based on the application of the technique cannot be considered valid for the purpose of the determination of rates to be charged the people of North Carolina. We simply cannot accept conclusions drawn from such a study.

Mr. Brennan also developed a regression model which he applied to the earnings price ratios of American Telephone and Telegraph Company. This regression was designed to show the effects of the declining equity ratio of the Bell System on its earnings price ratio and, thus, the cost of equity. This regression ignored the effects of such factors as interest rates, inflation, and general market declines on the earnings price ratio. Because such obviously important factors were ignored, we must reject Mr. Brennan's regression model.

Mr. Rosenberg's recommendations were based on his application of the Discounted Cash Flow technique to a group of 13 telephone utilities and telephone holding companies. This technique has been frequently presented before this Commission, and, properly applied, can give an indication of the cost of equity capital. The technique is itself, however, susceptible to possible error-producing problems. The choice of the growth rate to be used in the formula must be made with great care so that an erroneous conclusion will not be reached. It appears, however, that Mr. Rosenberg attempted to recognize the critical nature of the proper choice of growth rates by including five different growth rates for each of his companies.

Both witnesses also made adjustments in their recommendations to account for the low equity ratio of the Company. Mr. Brennan based his adjustment on the theory of Professors Modigliani and Miller as found in their 1963 work. Although there is some controversy as to the validity and applicability of this theory, it is clear that some adjustment must be made. The size of such an adjustment should vary with the particular firm under study, however. There is clearly less risk involved when a utility adopts a highly leveraged capital structure than when an industrial firm adopts the same structure. There is also less risk in the adoption of such a capital structure when there is a financial affiliation with a parent corporation. This Company is affiliated with the Mid-Continent System; most of its preferred stock is also held by Mid-Continent, and,

thus, the risks associated with the adoption of the leveraged capital structure are mitigated to some degree.

We conclude that a return of 7.70% on the fair value rate base as adopted is just and reasonable. This rate results in a return of 10.93% in the fair value common equity and will allow the Company to discharge its obligations to both ratepayers and investors and to provide adequate service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

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, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

SCHEDULE I
NORTH CAROLINA TELEPHONE COMPANY
Docket No. P-70, Sub 120
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
Twelve Months Ended April 30, 1976

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Local service revenue	$ 3,528,521	$626,653 1/	$ 4,155,174
Toll service revenue	1,373,579		1,373,579
Miscellaneous revenue	95,352		95,352
Uncollectible operating revenue	(34,146)	(7,305)	(41,451)
Total operating revenues	4,963,306	619,348	5,582,654
Operating Revenue Deductions:			
Maintenance	732,026		732,026
Traffic	295,269		295,269
Commercial	278,883		278,883
General accounting	83,673		83,673
Revenue accounting	95,921		95,921
General office salaries and expenses	97,307		97,307
Other operating expenses	312,850		312,850
Expenses charged to construction	(46,742)		(46,742)
Total	1,849,187		1,849,187

1/ Includes an amount of $6,496 to be derived from charging for directory assistance calls.

Depreciation	1,076,132		1,076,132
Amortization	3,025		3,025
Other operating taxes	525,276	37,161	562,437
State income tax	56,310	34,931	91,241
Federal income tax	382,220	262,683	644,903
Interest on customer deposits	1,134		1,134
Total	2,044,097	334,775	2,378,872
Total operating revenue deductions	3,893,284	334,775	4,228,059
Net operating income for return	$ 1,070,022	$284,573	$ 1,354,595
Investment in Telephone Plant:			
Telephone plant in service	$21,280,070		$21,280,070
Less: Accumulated depreciation	4,896,359		4,896,359
Net investment in telephone plant in service	$16,383,711		$16,383,711
Allowance for Working Capital:			
Cash	$ 154,193		$ 154,193
Materials and supplies	127,279		127,279
Average prepayments	14,210		14,210
Less: Average tax accruals	249,398		249,398
Customer deposits (end-of-period)	18,896		18,896
Total working capital allowance	27,388		27,388
Net investment in telephone plant in service and allowance for working capital	$16,411,099		$16,411,099
Fair value rate base	$17,592,143		$17,592,143
Rate of return on fair value rate base	6.08%		7.70%

SCHEDULE II
NORTH CAROLINA TELEPHONE COMPANY
Docket No. P-70, Sub 120
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
Twelve Months Ended April 30, 1976

		Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Operating Income
Capitalization		**Present Rates - Fair Value Rate Base**			
Total debt		$ 7,818,248	44.44	7.33	$ 573,078
Preferred stock		4,621,365	26.27	7.49	346,140
Common equity:					
Book	2,417,355				
Job development credit	384,020				
Fair value increment	1,181,044	3,982,419	22.64	3.79	150,804
Cost-free capital		1,170,111	6.65		-
Total		$17,592,143	100.00		$1,070,022
		Approved Rates - Fair Value Rate Base			
Total debt		$ 7,818,248	44.44	7.33	$ 573,078
Preferred stock		4,621,365	26.27	7.49	346,140
Common equity:					
Book	2,417,355				
Job development credit	384,020				
Fair value increment	1,181,044	3,982,419	22.64	10.93	435,377
Cost-free capital		1,170,111	6.65		-
Total		$17,592,143	100.00		$1,354,595

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Philip L. Hamrick, President of N.C. Telephone, testified regarding the Applicant's proposed rate schedules. Mr. Hamrick presented basic local rates structured according to rate groups based upon local calling scope. The rates reflected increases in business to residence rate ratios and trunk to individual line rate ratios. Mr. Hamrick also proposed increases in the local coin rate, service charges, and miscellaneous equipment.

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. Mr. Carpenter commented on the proposed rate groups, group differentials, and rate ratios and noted that the rate ratios recently set by the Commission for other companies could produce large increases in the Applicant's business rates. He suggested that it may be appropriate to limit the increases in rate ratios in order to avoid extreme increases in business rates. Mr. Carpenter testified that he would prefer to limit the application of a rotary rate to rotary lines not terminated in key systems, multiline sets, or PBX switchboards and that the rotary arrangement should be included in the key trunk and PBX trunk rates without an additional additive. He stated that he would prefer to expand the key trunk definition to include central office lines terminating in three-line sets and single-button sets as well as central office lines terminating in key systems.

In the area of zone charges he recommended a reduction of not more than 50% in zone charge revenue. 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 cost. 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 supported the Applicant's proposal for an increase in the local coin rate and recommended a change in the procedure for rating mileage services such as extension line, tie line, and local private line service from route measurement to a direct airline method. He also recommended changes in rates for miscellaneous items for which cost information is available.

Based on the testimony and exhibits of Mr. Hamrick and Mr. Carpenter, the Commission reaches the following conclusions with regard to the rates and charges to be approved for N.C. Telephone:

1. Basic Rate Schedule

   (a) The Commission concludes that the ratio between business and residence individual line rates should be increased to approximately 2.4 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.

(c) The Commission concludes that rate groups based upon local calling scope should be established for basic local services.

2. Zone Charges

The Commission finds that a moderate reduction in zone charge revenue is appropriate at this time.

3. Service Charges

The Commission concludes that N.C. Telephone's 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 proposed by the Staff.

4. 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, that 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.

5. 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.

6. 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. 19

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 charging for directory assistance inquiries is 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 reduction of $12,958 and increased revenues of $6,496.

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. This D.A. plan is considered experimental until further Order relating to this service and until a statewide D.A. charging plan is adopted for all regulated telephone companies in North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Commission directs the Staff to monitor closely all complaints and to continue service investigations of North Carolina Telephone Company. The Staff should concentrate on the areas and exchanges shown to be deficient. If the efforts of the Staff do not bring about improvement through informal means in a reasonable period of time, the Staff shall report results to this Commission with recommendations for further action including methods to confirm the level of subscriber satisfaction.

2. That the Applicant, North Carolina 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 $633,149, which includes revenues of $6,496 to be derived from directory assistance charges (based upon stations and operations as of April 30, 1976) as hereinafter set forth in Appendices A, B, and C.

3. That the rates, charges, and regulations set forth in Appendices A, B, and C attached hereto which will produce, based upon stations and operations as of April 30, 1976, additional gross revenues of approximately $633,149 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.

4. That the Applicant shall file the necessary revised tariffs reflecting the changes in rates, charges, and regulations shown in Appendices A and B within seven days from the date of this Order. Revised tariffs reflecting the provisions in Appendix C shall be filed at least 15 days prior to the effective date of said provisions.

5. That North Carolina Telephone Company is authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of this Order and after the NOTICE attached as Appendix D is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. That North Carolina Telephone Company shall within 30 days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix D, 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 North Carolina Telephone Company shall place in its telephone directories the directory information included in Appendix D relating to directory assistance charges.

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.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of March, 1977.

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

APPENDIX A
NORTH CAROLINA TELEPHONE COMPANY
DOCKET NO. P-70, SUB 120

BASIC LOCAL SERVICE

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- 6,000	9.40	8.40	7.90	22.40	20.25	19.20
2	6,001-13,000	9.50	8.50	8.00	22.85	20.65	19.55
3	13,001-22,000	9.70	8.70	8.20	23.30	21.05	19.95
4	22,001-60,000	10.50	9.50	9.00	25.15	22.75	21.55
5	60,000-Up	12.45	11.45	10.50	27.35	24.70	23.30

Exchange	Applicable Rate Group	Exchange	Applicable Rate Group
Ansonville	2	New Salem	1
Hemby Bridge	4	Norwood	3
Indian Trail	4	Peachland-Polkton	2
Laurel Hill	2	Pinebluff	3
Lilesville	2	Wadesboro	2
Marshville	1	Waxhaw	5
Matthews	4	Wingate	3
Morven	2		

ZONE CHARGES

Zone	1-Party	2-Party	4-Party
3	3.20	1.50	.50
4	3.20	1.50	.50

Note: For the remainder of Appendix A and Appendices B, C, and D, see the official Order in the Office of the Chief Clerk.

DOCKET NO. P-44, SUB 77

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of The Old Town Telephone System, Inc., for Authority to Increase its Rates and Charges in its Service Area Within North Carolina	) ORDER GRANTING) PORTION OF) REQUESTED RATE) INCREASE

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on December 14 and 15, 1976, at 10:00 A.M.

BEFORE: Commissioner J. Ward Purrington, Presiding; and Chairman Tenney I. Deane, Jr., and Commissioner Ben E. Roney

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, Post Office Box 1406, Raleigh, North Carolina 27602

For the Attorney General:

Richard L. Griffin, Associate Attorney General, Department of Justice, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

For the Commission Staff:

Jane S. Atkins and Paul L. Lassiter, Associate Commission Attorneys, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 2, 1976, The Old Town Telephone System, Inc. (hereinafter Old Town, Company, or Applicant), filed an application for authority to adjust and increase its rates and charges by approximately $631,702 in additional annual gross revenues. Old Town proposed that the rate schedule be allowed to go into effect on or after September 1, 1976, without suspension. The Applicant filed testimony and exhibits along with and in support of its application.

By Order issued August 27, 1976, the Commission denied Old Town's request to implement the proposed rates effective September 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 on December 14, 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 Old Town, at its own expense, publish in newspapers in the area served by the Applicant the Notice of Hearing attached to the Commission's Order and, in addition, mail by bill insert the same Notice of Hearing to all 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 informational requirements by the Commission.

On October 22, 1976, the Attorney General filed Notice of Intervention and the same was recognized by the Commission by Order dated October 26, 1976.

The public hearing in this matter began on December 14, 1976.

The Applicant presented the testimony of the following witnesses: Frank E. Via, President and General Manager of Old Town, with regard to growth, services, procurement and construction programs; Franklin D. Rowan, Regional Controller with Mid-Continent Telephone Service Corporation, as to accounting, capital structure and rate design; R. D. Bonnar, Vice President-Controller of Mid-Continent Telephone Corporation, as to the service agreement between Old Town and Buckeye Telephone and Supply Company; John D. Russell, Executive Vice President of Associated Utility Services, regarding replacement costs and fair value; and John J. Jaquette, Chairman of the Board of Associated Utility Services, Inc., as to rate of return.

The Commission Staff offered the testimony of the following witnesses: James S. Compton, Telephone Engineer, regarding quality of service; Gene A. Clemmons, Chief, Telephone Service, as to prices paid for purchases made by Old Town from its affiliated supplier, Buckeye Telephone and Supply Company; Vern W. Chase, Chief, Telephone Rate Section, regarding directory assistance; William J. Willis, Jr., Telephone Engineer, as to review of the proposed rate design and Staff recommendations; Hugh L. Gerringer, Toll Settlement Engineer, regarding separations and toll settlements; Curtis Toms, Jr., Staff Accountant, as to original cost, revenues and expenses; Eugene H. Curtis, Jr., Operations Engineer, as to review of Company's proposed replacement cost and fair value; and Edwin A. Rosenberg, Operations Analyst, as to rate of return and cost of capital.

Oral Argument was presented in lieu of briefs at the conclusion of the two-day hearing. Oral arguments was waived by the Staff.

Based upon the entire evidence of record, the Commission makes the following

FINDINGS OF FACT

1. That Old Town 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 increase in rates and charges sought by Old Town would produce $631,702, in additional annual gross revenues.

3. Old Town's present rates were established by Order of the Commission on December 3, 1968, in Docket No. P-44, Sub 52 as modified by the Commission's Order in Docket No. P-100, Sub 34.

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 March 31, 1976.

5. That the overall quality of service provided by Old Town to its customers is adequate.

6. That the prices paid by Old Town to its affiliated supplier, Buckeye Telephone and Supply Company, are not justification for an adjustment in this rate case.

7. That Old Town'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 $197,014.

8. That the original cost of Old Town's intrastate telephone plant in service used and useful in the provision of telephone service is $11,820,651. The accumulated depreciation associated with the telephone plant in service is $3,274,586. Old Town's original cost of intrastate net telephone plant in service is $8,546,065.

9. That the reasonable replacement cost less depreciation of Old Town's plant used and useful in providing intrastate telephone service in North Carolina is $11,029,210.

10. That the fair value of Old Town's plant used and useful in providing intrastate telephone service in North Carolina should be derived by giving 4/5 weighting to the reasonable original cost less depreciation of Old Town's plant in service and 1/5 weighting to the depreciated replacement cost of Old Town's utility plant. By this method, using the depreciated original cost of $8,546,065 and the depreciated replacement cost of $11,029,210, the Commission finds that the fair value of Old Town's utility plant devoted to intrastate telephone service in North

Carolina is $9,042,694. This fair value includes a reasonable fair value increment of $496,629.

11. That the reasonable allowance for working capital is $66,688.

12. That the fair value of Old Town's plant in service to its customers within the State of North Carolina at the end of the test year of $9,042,694 plus the reasonable allowance for working capital of $66,688 plus Rural Telephone Bank Class B stock of $197,014 yields a reasonable fair value of Old Town's property in service to North Carolina customers of $9,306,396.

13. That the approximate gross revenues net of uncollectibles for Old Town for the test period are $1,946,266 and under Company proposed rates would be $2,571,651.

14. That the level of Old Town's operating revenue deductions after accounting and pro forma adjustments including taxes and interest on customer deposits is $1,638,174, which includes the amount of $611,910 for actual investment currently consumed through reasonable actual depreciation.

15. That the rate of return on the fair value of the intrastate investment of the Company (rate base) upon which rates and charges should be based is 5.70%. The Commission finds that this rate is just and reasonable.

16. That Old Town should be allowed to increase its rates and charges in order to produce $488,864 in additional annual gross revenues in order for the Company to have an opportunity, through efficient management, to earn the rate of return on the fair value of its property which the Commission has found to be reasonable and fair.

17. That the schedule of rates, charges, and regulations included in Appendices A, B, and C of this Order are found to be just and reasonable.

18. 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.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, 3, and 4

The evidence for these findings is contained in the verified application, the Order setting hearing, the testimony of Company witness Via 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. 5

The evidence as to the quality of telephone service provided by The Old Town Telephone System, Inc., which appears in this record consists of the testimony of Staff witness Compton and the cross-examination of Company witness Via.

Mr. Compton testified concerning the Commission Staff's investigation and evaluation of the quality of telephone service provided by Old Town. He testified that the Staff's evaluation was based on results of field tests conducted in the exchanges of The Old Town Telephone System, Inc. 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 analysis of customer trouble reports, service orders, and subscriber held orders. Based on the Staff's investigation, the witness concluded that the Company, overall, was meeting the service objectives established by the Commission. However, Mr. Compton also testified that his evaluation revealed certain specific service areas which failed to meet Commission objectives including excessive trunk noise in Rural Hall EAS, excessive intraoffice and interoffice failure rate at Old Town and excessive transmission loss on the Stanleyville EAS trunks to the Old Town exchange. Also, witness Compton stated that slow business office answers were more than twice the objective for that category.

On cross-examination, Mr. Via stated that the Old Town switching problem mentioned in witness Compton's prefiled testimony has been identified and will be solved when the Company receives a plug-in card from its equipment supplier. This card is for the register-sender in the Old Town exchange.

Witness Via stated that Old Town had performed maintenance on the noise problem. The problem has been reduced but is not completely alleviated. Mr. Via stated that the noise will be reduced to within limits in the near future, but since the problem is associated with the local power company more coordination and further testing will be required. Mr. Via also stated that the ultimate solution is to replace the lead cable.

While the evidence indicates certain deficiencies exist, the Commission, based on the entire record, concludes the overall quality of service provided by Old Town is adequate. Old Town should continue its corrective action so that the problems heretofore mentioned will be resolved. The Commission Staff should make follow-up investigations to verify that the Company is taking the necessary action to correct the problems.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence in this case relating to the reasonableness of purchases by Old Town from its affiliated supplier, Buckeye Telephone and Supply Company, consists of the testimony of Company witness Via and Staff witness Clemmons. Company witness Via stated on cross-examination that purchases from Buckeye include cable, wire, telephone, hardware and the normal routine purchases used in operating the Company. The witness further stated that Old Town normally purchases from Buckeye if the item is available when needed. If supplies are not available from Buckeye when needed, Old Town purchases its supplies from other suppliers.

Staff witness Clemmons concluded from his study of prices paid by Old Town to Buckeye that there was not clear justification for an adjustment in this rate case. However, he pointed out that some items purchased from Buckeye were at higher prices than were paid by some other independent telephone companies. Witness Clemmons pointed out that with the exception of central office switching equipment, Old Town purchases essentially all of its plant from Buckeye.

Based on the evidence of record, the Commission concludes that there is not justification for an adjustment in this case because of unreasonable prices paid by Old Town on purchases from its affiliated supplier, Buckeye Telephone Supply Company. However, the Commission emphasizes that the prices paid by regulated operating telephone companies on purchases from affiliated suppliers are an area of concern. The Commission will continue to review the reasonableness of prices paid by Old Town for its purchases from Buckeye. Appropriate adjustments will be made in future cases if unreasonable prices are found.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Staff witness Toms proposed that Old Town's investment in Rural Telephone Bank (RTB) Class B stock in the amount of $197,014 be included in the calculation of the original cost net investment. Company witness Rowan did not include this item in his determination of the original cost net investment. Staff witness Toms 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 Old Town'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 Old Town's investment in RTB Class B stock in the amount of $197,014 should be included in the original cost net investment.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Company witness Rowan and Staff witness Toms presented different amounts for telephone plant in service and its associated accumulated depreciation as follows:

Item	Company Witness Rowan	Staff Witness Toms
Original cost of telephone plant in service	$11,815,437	$11,820,651
Less: Accumulated depreciation	3,157,036	3,274,586
Net original cost of telephone plant in service	$ 8,658,401	$ 8,546,065

Both witnesses agreed that Old Town's total amount of telephone plant in service at the end of the test year was $12,962,633; however, the witnesses disagreed as to the appropriate amount of telephone plant in service applicable to intrastate operations. As can be seen in the chart above, the amount determined by Staff witness Toms is $5,214 greater than the amount determined by Company witness Rowan. The different amounts of intrastate telephone plant in service found by the two witnesses result exclusively from the use of different intrastate allocation factors. Company witness Rowan determined the amount of intrastate telephone plant in service by allocating total telephone plant in service to intrastate operations by utilizing a composite intrastate allocation factor of 91.15% while Staff witness Toms allocated total telephone plant in service to intrastate operations by applying a separate intrastate allocation factor to each individual telephone plant account. The allocation factors which Mr. Toms used were developed by Staff witness Gerringer.

The Commission concludes that the method of determining intrastate telephone plant in service used by Staff witness Toms is more reasonable than the method used by Company witness Rowan because the use of separate allocation factors for each individual telephone plant account results in a more accurate determination of intrastate telephone plant in service than the method used by Company witness Rowan of applying a composite factor based on average plant during the test year to total telephone plant in service.

The Commission concludes that the original cost of intrastate telephone plant in service is $||,820,65|.

The witnesses also disagree on the proper amount of accumulated depreciation to be deducted from the cost of intrastate telephone plant in service in determining net intrastate telephone plant in service. Company witness Rowan deducted the actual balance in accumulated depreciation as shown on the books at the end of the test year in the amount of $3,|57,036, after allocation to intrastate operations. Staff witness Toms increased this amount by $||7,689, to reflect the effect of his end-of-period adjustment to depreciation expense. He also reduced accumulated depreciation by $|39, which figure resulted from the use of a different intrastate allocation factor. The factor was developed by Staff witness Gerringer. The Commission has previously concluded that Staff witness Gerringer's intrastate allocation factors developed for allocating total telephone plant in service to intrastate operations are proper, and the Commission also concludes that Staff witness Gerringer's intrastate allocation factor used to allocate the accumulated depreciation to intrastate operations is proper; therefore, the Commission accepts Mr. Toms' adjustment decreasing the intrastate accumulated depreciation reserve by $|39.

The $||7,689 adjustment made by Staff witness Toms increases the accumulated depreciation balance to bring it to an end-of-period level following his end-of-period depreciation expense adjustment. Company witness Rowan made an end-of-period depreciation expense adjustment but did not make the corresponding adjustment to accumulated depreciation. Staff witness Toms testified that, since ratepayers are being asked to pay in rates to cover an additional $||7,689 of depreciation expense as if the end-of-test-period plant in service had been in service during the entire test period, the accumulated depreciation balance should be increased as if the end-of-test-period 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 an end-of-period level and not correspondingly increase the accumulated depreciation balance. The Commission, therefore, accepts Staff witness Toms' upward adjustment of $||7,689 to accumulated depreciation. The Commission concludes that the proper deduction of accumulated depreciation is $3,274,586.

The Commission concludes that the original cost of Old Town's intrastate net telephone plant in service for use in this proceeding is $8,546,065.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9, |0, AND |2

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 state of the art

of telephony. Company witness Russell, a consultant to The Old Town Telephone System, Inc., testified with respect to his determination of the net trended original cost valuation of Old Town's properties used and useful in providing telephone service to North Carolina as of March 31, 1976. Witness Russell calculated his net trended original cost by computing a surviving investment, a reproduction cost new, a replacement cost which corrects plant in service for economies of scale, and a condition percent based on an 8% present worth analysis for calculating accrued depreciation. Witness Russell calculated his replacement cost less depreciation and provided this value to Company witness Rowan. Witness Rowan took the net replacement cost, added in working capital, and called the result fair value rate base.

Staff witness Curtis, testifying on replacement cost analysis and fair value, agreed with the reproduction cost new and replacement cost as calculated by Company witness Russell. However, in calculating accrued depreciation, there was a difference between the methodologies of Company witness Russell and Staff witness Curtis. Staff witness Curtis calculated a condition percent based on the book reserve for figuring the accrued depreciation to be deducted from the replacement cost. The Commission concurs that a condition percent based on the book reserve is appropriate in that Company witness Russell's 8% condition percent methodology understates the depreciation and overstates the condition percent.

The Commission concludes that the reasonable replacement cost less depreciation of Old Town's telephone plant in service at March 31, 1976, is $11,029,210.

Having determined the appropriate original cost of net investment in intrastate plant to be $8,546,065 and the reasonable estimate of net replacement cost of that plant to be $11,029,210, the Commission must determine the fair value of Old Town's net plant in service.

The Commission concludes that a weighting of 4/5 be given the original cost less depreciation and a 1/5 weighting be given the replacement cost less depreciation. By weighting the net original cost of $8,546,065 by an 80% factor and the net replacement cost of $11,029,210 by a 20% factor, the fair value of Old Town's utility plant devoted to intrastate telephone service in North Carolina is $9,042,694. This fair value calculation includes a reasonable fair value increment of $496,629.

The fair value of Old Town's plant in service to its customers within the State of North Carolina at the end of the test period, March 31, 1976, of $9,042,694 plus the reasonable allowance for working capital of $66,688 and an addition of $197,014 for Rural Telephone Bank Class B stock yields a reasonable value of Old Town's property in service to North Carolina customers of $9,306,396.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Rowan and Staff witness Toms each presented a different amount for the working capital allowance as shown by the chart below:

Item	Company Witness Rowan (a)	Staff Witness Toms (b)
Cash (1/12 of operating expenses)	$ 67,991	$ 66,854
Materials and supplies	45,617	45,617
Average prepayments	2,762	2,540
Average tax accruals	(29,355)	(31,065)
Customer deposits	(10,749)	(17,258)
Total	$ 76,266	$ 66,688

Both witnesses computed working capital allowances consisting of cash (1/12 of operating expenses excluding depreciation and taxes), end-of-period materials and supplies, and average prepayments, less average tax accruals and end-of-period customer deposits. There are differences in the methods of computing several of the above-mentioned components of the allowance as determined by Company witness Rowan and Staff witness Toms. Each witness computed the cash component of working capital allowance by dividing intrastate operating expenses (less depreciation and taxes) by 12. Staff witness Rowan used expense amounts determined on his Schedule 5, Page 1 of 6, Column 6, while Staff witness Toms used expense amounts determined on his Schedule 3, Column (C). The Commission recognizes that the differences between the two expense amounts result from adjustments made by Staff witness Toms. Under Evidence and Conclusions for Finding of Fact No. 14, the Commission concludes that total operating expenses, including interest on customer deposits, are $802,242 and that 1/12 of this amount, or $66,854, is the proper amount for the cash component of the working capital allowance.

Both witnesses were in agreement on the $45,617 amount for end-of-period materials and supplies. The Commission finds this amount to be reasonable and concludes that $45,617 is the proper amount of end-of-period materials and supplies to be used in the computation of the working capital allowance.

While the difference between the average prepayments component of working capital allowance as presented by the two witnesses is only $222, the methods used by each witness in determining average prepayments applicable to intrastate operations are different. Company witness Rowan aggregated total prepayments and applied a composite intrastate allocation factor to determine the intrastate portion of average prepayments to be included as a component of the working capital allowance. Staff witness Toms testified that he separated average prepayments by account and allocated each account to intrastate operations by use of

the intrastate allocation factor that was associated with the expense account for each of these prepayments. The Commission finds that Staff witness Toms' calculation of average prepayments is consistent with the methodology used to allocate associated expense accounts to intrastate operations and, therefore, concludes that his amount of average prepayments of $2,540 is more appropriate for inclusion in the computation of the working capital allowance than the amount computed by Company witness Rowan.

In the computation of intrastate average tax accruals to be used in the determination of the working capital allowance, each witness used essentially the same methodology that he used in the determination of average prepayments. Accordingly, the Commission concludes that the $31,065 amount as presented by Staff witness Toms is the appropriate amount to be used in the calculation of the working capital allowance.

With respect to the amount of customer deposits, the final component of the working capital allowance, the two witnesses differ in the amount of $6,509. Company witness Rowan used the ratio of intrastate toll revenues to total toll revenues to allocate customer deposits to intrastate operations. Staff witness Toms testified that he allocated customer deposits on the ratio of per books intrastate subscriber revenues and intrastate toll revenues to total subscriber station revenues and total toll revenues.

The Commission finds the method of allocating customer deposits as used by Staff witness Toms to be more reasonable than the method used by Company witness Rowan, because the determination of the amount of a customer's deposit is based on 2/12 of a customer's estimated total telephone bill for the ensuing 12 months and not solely on the toll revenue portion of the estimated telephone bill. The Commission, therefore, concludes that $17,258 is the proper amount of customer deposits to be used in the determination of the working capital allowance.

The Commission concludes that, consistent with other recent rate case decisions, the formula method of determining the working capital allowance should be used in this case. The Commission has examined all components of the working capital allowance and has made its determination regarding the proper amount of each component as stated in the preceding paragraphs. The Commission concludes that the proper allowance for working capital to be used in this proceeding is $66,688.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company witness Rowan, Staff witness Gerringer, and Staff witness Toms presented testimony concerning the representative end-of-period level of operating revenues. Staff witness Gerringer presented testimony concerning Old Town's toll settlements with Southern Bell Telephone and

Telegraph Company and the Company's appropriate end-of-period level of intrastate toll revenues. The end-of-period toll revenue amount determined by Staff witness Gerringer was included by Staff witness Toms in his testimony and exhibit. Company witness Rowan and Staff witness Toms each testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following tabular summary shows the amount claimed by each witness:

Item	Company Witness Rowan	Staff Witness Toms
Subscriber station revenues	$1,559,923	$1,572,475
Toll service revenues	306,244	324,165
Miscellaneous operating revenues	66,443	66,011
Uncollectibles	(13,541)	(16,385)
Total	$1,919,069	$1,946,266

The difference of $12,552 between the amounts presented by each witness for subscriber station revenues results from two adjustments made by Staff witness Toms. One adjustment increased service connection charge revenues by $11,795, and the other adjustment increased extended area service revenues by $757. Staff witness Toms testified that, when Company witness Rowan developed his end-of-period revenues, he included service connection charge revenues at an amount which was $11,795 less than the actual revenues recorded during the test year. Staff witness Toms further testified that he reviewed the number of service connection orders and amount of related revenues since the end of the test year and found that the level of service connection orders and related revenues remained at or above the level actually experienced by Old Town during the test period and, based on the results of his review, the end-of-period level of service connection charge revenues should not be any lower than the actual level experienced during the test period. Also, Counsel for the Applicant stipulated that end-of-period service connection charge revenues should be stated at the level actually experienced during the test year.

The Commission agrees that, based on Staff witness Toms' review of the number of service connection charge orders and amount of service connection charge revenues since the end of the test period and the stipulation of Old Town's Counsel, the adjustment made by Staff witness Toms to increase Mr. Rowan's end-of-period subscriber station revenues by $11,795 is appropriate.

Staff witness Toms also testified that he increased subscriber station revenues by $757 to annualize revenue to be received under a new Extended Area Service Contract with Southern Bell Telephone and Telegraph Company that became effective on September 25, 1975. Company witness Rowan included extended area service revenues at the actual level experienced during the test year. The Commission agrees

that Staff witness Toms' adjustment to annualize extended area service revenues to the level which is now currently being experienced is appropriate, because rates are being set for the future and should be based on revenues and expenses which will be experienced when the rates are established. The Commission concludes that the end-of-period level of subscriber station revenues is $1,572,475.

The next area of disagreement between the witnesses concerns the end-of-period level of toll revenues. In determining his end-of-period intrastate toll revenues of $306,244, Company witness Rowan testified that he reduced actual test-period intrastate toll revenues of $309,657 by $3,413 to eliminate toll revenues occasioned by a settlement adjustment applicable to the test year which was booked outside the test year. As previously explained, Staff witness Gerringer testified concerning the end-of-period level of intrastate toll revenues. Witness Gerringer stated that he utilized the end-of-period level of net investment and operating expenses and an intrastate toll settlement rate of return of 7.92% in calculating the end of test-period level of intrastate toll revenues of $323,720. The rate of return of 7.92% is based on the sum of the monthly rates of return for the 12-month period, October 1975 through September 1976. These returns reflect 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. Witness Gerringer also testified that, in addition to the calculated amount of intrastate toll revenues, it was necessary to add a noncost study type of private line toll revenues in the amount of $4,956 to arrive at the total amount of intrastate toll revenues of $328,676. 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 Toms.

Staff witness Toms testified that he used Staff witness Gerringer's amount of $328,676 and deducted $4,511 to recognize the intrastate toll revenue effect of his adjustments to accumulated depreciation and operating expenses. Company witness Rowan did not make this adjustment to toll revenues.

Under Evidence and Conclusions for Findings of Fact Nos. 8 and 14, the Commission accepted Mr. Toms' adjustments to accumulated depreciation and operating expenses, respectively; therefore, the Commission accepts Mr. Toms' adjustment decreasing Mr. Gerringer's intrastate toll revenues by $4,511.

The Commission concludes from examination of the evidence presented that the appropriate level of intrastate toll revenues to be used in this proceeding is $324,165, based on Staff witness Gerringer's end-of-period intrastate toll

revenue calculation of $323,720 plus private line revenues of $4,956 less $4,5|| representing the intrastate toll revenue effect of adjustments made by Staff witness Toms.

The third item of disagreement between Company witness Rowan and Staff witness Toms is the appropriate amount of miscellaneous revenues. Staff witness Toms testified that he decreased miscellaneous revenues by $432 to recognize the annual effect of a new contract with Southern Bell Telephone and Telegraph Company for the rental of interexchange facilities. Mr. Toms testified that the new contract agreement decreased monthly intrastate rental revenues to $250 per month, or $3,000 annually. He further testified that Mr. Rowan had included $3,432 in end-of-period revenues for this item which required the $432 adjustment.

The Commission accepts the adjustment presented by Staff witness Toms and concludes that $66,0|| is the appropriate level for end-of-period miscellaneous revenues.

The final item of disagreement between the two witnesses involves the appropriate level of uncollectible operating revenues. Company witness Rowan did not propose an adjustment to actual test period uncollectible revenues. Staff witness Toms testified that he calculated an adjusted rate for uncollectibles of |% because the Company underaccrued uncollectibles during the test period and he applied the |% rate for uncollectibles to his end-of-period local service revenues of $|,638,486 to arrive at uncollectible revenues of $|6,386.

The Commission finds that uncollectible operating revenues should be adjusted to an end-of-period level based on the end-of-period local service revenues using the |% rate of uncollectibles actually experienced during the test period. The Commission has previously determined that end-of-period local service revenues are $|,638,486 ($|,572,475 + $66,0||); therefore, the Commission concludes that the appropriate end-of-period level of uncollectible revenues is $|6,385 ($|,638,486 x |%).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. |4

Company witness Rowan and Staff witness Toms 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 rates in this proceeding for The Old Town Telephone System, Inc. The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Rowan	Staff Witness Toms
Operating expenses	$ 815,894	$ 801,206
Depreciation and amortization	619,262	611,910
Other operating taxes	199,482	203,277
Income taxes - state and federal	(20,418)	20,745
Interest on customer deposits		1,036
Total operating revenue deductions	$1,614,220	$1,638,174

The first item of difference in the operating revenue deductions stated above concerns operating expenses. Company witness Rowan testified that the appropriate level of operating expenses is $815,894 while Staff witness Toms testified that the appropriate level is $801,206, or a difference of $14,688. The $14,688 difference is comprised of the following adjustments made by Staff witness Toms:

Item	Amount
1. Adjustment to reduce maintenance expense for nonrecurring toll desk work	$ (5,507)
2. Adjustment to end-of-period depreciation on vehicles and other work equipment charged to maintenance expense	432
3. Adjustment to decrease traffic expense for the effect of a new operator office agreement and the addition of directory assistance charges	(21,414)
4. Adjustment to increase traffic expense for the effect of a new traffic engineering department	19,177
5. Adjustment to increase postage expense	766
6. Adjustment to increase rate case expenses	4,109
7. Adjustment to decrease other operating expenses for effect of a new extended area service agreement with Southern Bell Telephone and Telegraph Company	(611)
8. Adjustment to reduce audit expense	(11,640)
Total	$(14,688)

The Commission will now discuss each of the preceding adjustments comprising the $14,688 difference in operating expenses.

The first adjustment listed above concerns the proper end-of-period level for toll desk work.

Staff witness Toms testified that the Company upgraded its service to customers by installing a Traffic Service Position System (TSPS) prior to the beginning of the test year, and that after the equipment was installed, concentrated testing was necessary to insure proper functioning of the equipment. Staff witness Toms also testified that the expense relative to the concentrated testing which was incurred during the first six months of the test period would never be experienced again, once the system had been completely evaluated and deemed functional. Staff witness Toms testified further that the toll desk work expense recorded during the second half of the test period was considered a normal level, and that this amount was annualized to adjust toll desk work expense to the proper end-of-period level.

The Commission concludes that Staff witness Toms' adjustment reducing maintenance expense by $5,507 is proper because this toll desk work expense is considered nonrecurring in nature. The $5,507 expense item incurred in testing and evaluating the TSPS equipment will not be experienced in the future; therefore, it should not be considered in determining the cost of service which will be used in setting rates for the future.

The second adjustment listed above also concerns an adjustment to maintenance expense. Staff witness Toms testified that it was necessary to increase maintenance expense by $432 in order to recognize the depreciation expense on vehicles and other work equipment that is charged to maintenance expense. Staff witness Toms testified that this adjustment is necessary because depreciation on vehicles and other work equipment is transferred to a clearing account, and, ultimately, part of this depreciation is capitalized and the remainder is charged to maintenance expense. He calculated the difference between end-of-period depreciation on vehicles and other work equipment which will be charged to maintenance expense and the actual amount expensed during the test year.

The Commission concludes that the adjustment presented by Staff witness Toms to increase maintenance expense for the effect of his end-of-period adjustment to depreciation on vehicles and other work equipment is appropriate. To omit the portion of vehicle and work equipment depreciation charge to maintenance expenses would be to understate end-of-period maintenance expenses; therefore, the Commission concludes that to properly state end-of-period maintenance expense, the depreciation applicable to vehicles and work equipment must be included. The Commission concludes that Staff witness Toms' end-of-period adjustment of $432 is proper. The Commission further concludes, upon examination of the evidence presented, that the proper level of

maintenance expenses to be used in this proceeding as an operating revenue deduction is $331,918.

The third area of difference listed above concerns an adjustment to decrease traffic expense for the effect of a new operator office agreement and for the expense effect of charging for directory assistance calls.

Under Evidence and Conclusions for Finding of Fact No. 18, the Commission concludes that Staff witness Chase's adjustment of $21,414 decreasing traffic expenses associated with the effect of a new operator office agreement and the implementation of directory assistance charges is appropriate.

The fourth area of difference listed above concerns an adjustment presented by Staff witness Toms to increase traffic expense for the effect of a new traffic engineering department. Staff witness Toms testified that in January 1976 a formal traffic engineering department was established by Mid-Continent Telephone Service Corporation to monitor the traffic needs of all the telephone companies falling under the guidance of the Southern Region. He also testified that the expense was allocated to each of these companies on a per main station basis. Staff witness Toms further testified that he annualized booked traffic expenses for the period February 1976 through September 1976 and determined the annual level of expenses to be $22,488. He then deducted from this amount $3,311 of traffic engineering expenses actually recorded during the test period, for a net increase in traffic expense of $19,177.

The Commission concludes that rates in this proceeding should be set on a level of traffic expense that is expected to be incurred by Old Town in the future. The Commission also concludes that the adjustment to increase traffic expense by $19,177 as presented by Staff witness Toms is appropriate because Old Town is currently experiencing this increased level of traffic expense associated with the new traffic engineering department. The Commission further concludes that the proper level of traffic expense to be used in this proceeding as an operating revenue deduction is $38,230.

The fifth difference listed above concerns the end-of-period adjustment to postage expense resulting from the $.03 per ounce first class postage increase which became effective on January 1, 1976. Company witness Rowan made the adjustment recognizing the increase based on the number of end-of-period main stations at March 31, 1976. Staff witness Toms testified that he used total primary telephones as a basis for computing the additional postage expense. Staff witness Toms also testified that he added to this amount an amount representing additional postage that is experienced by the Company at its Winston-Salem, North Carolina office, an amount that was not recognized by Company witness Rowan. The net effect of the adjustment

presented by Staff witness Toms increases postage expense by $766.

The Commission is of the opinion that the postage expense adjustment presented by Staff witness Toms more closely represents the postage expense increase to be incurred by The Old Town Telephone System, Inc., and, therefore, the Commission concludes that Staff witness Toms' adjustment of $766 is proper.

The sixth difference listed above concerns Staff witness Toms' adjustment to increase rate case expenses by $4,109. Staff witness Toms testified that during his field investigation, Company witness Rowan provided him with an additional estimate of rate case expenses totaling $7,628, which was added to the original estimate of $50,000, thereby increasing the annual amortization to $19,209 ($57,628 ÷ 3) or an overall increase of $4,109 over the amount amortized by Company witness Rowan. Staff witness Toms also testified that he allocated the entire $4,109 amount to intrastate operations because this rate proceeding is for an increase in local rates only and that none of the expenses incurred in this proceeding should be allocated to interstate operations.

The Commission recognizes that this rate proceeding involves a request for increases in local service rates only and concurs with Mr. Toms' allocation of total rate case expenses to intrastate operations only. The Commission concludes that the adjustment presented by Staff witness Toms to increase rate case expenses by $4,109 is proper.

The seventh item of difference listed above concerns an adjustment presented by Staff witness Toms to decrease other operating expenses by $611 as a result of a new extended area service agreement with Southern Bell Telephone and Telegraph Company. Staff witness Toms testified that a new Extended Area Service (EAS) agreement contract between The Old Town Telephone System, Inc., and Southern Bell Telephone and Telegraph Company became effective September 25, 1975, at a rate of $1,353.57 per month, or $16,243, annually. This amount was compared with actual extended area service payments during the test period of $16,917, thereby necessitating a $674 decrease of which $611 is applicable to intrastate operations. Company witness Rowan did not make an adjustment for the effect of the new contract.

The Commission is of the opinion that the rates in this proceeding should be set on a level of expense that is expected to be incurred by Old Town in the future. The Commission, therefore, concludes that the adjustment to decrease other operating expenses by $611 is proper because Old Town is currently experiencing extended area service payments of $16,243, annually, instead of the level of $16,917 which was experienced during the test period.

The final item of difference listed above concerns an adjustment made by Staff witness Toms decreasing other operating expenses by $11,640 due to an overaccrual of audit fees by the Company during the test period. Staff witness Toms testified that Old Town had accrued $24,064 in audit fees during the year and that this accrued amount was $12,848 larger than the actual independent auditor's fee rendered for the reporting year ended December 31, 1975. Staff witness Toms stated that in his opinion the $11,216 represents a more normalized level of audit fees than the $24,064 accrued amount because audit fees in 1975 were less than the $17,031 amount incurred by the Company for the 1974 audit and that Mid-Continent Telephone Service Corporation is performing more audit related accounting tasks "in-house" to reduce the independent auditor's fees.

The Commission concludes, based on the evidence presented above, that test period audit fees were overstated by the Company. To determine the amount of the overstatement the Commission relied on the most recent objective evidence available, the actual 1975 audit fee. The Commission concludes that the Company has overstated test period audit expense by $12,848 on a total Company basis or $11,640 as applicable to intrastate operations and that Staff witness Toms' adjustment decreasing audit fees is proper.

The Commission concludes that the level of expenses charged to construction upon which there is no disagreement between the two witnesses is $75,257 and further concludes that the proper amount of operating expenses to be used in this proceeding is $801,206 consisting of maintenance expenses of $331,918, traffic expenses of $38,230, commercial expenses of $136,694, general office salaries and expenses of $206,239, other operating expenses of $163,382 and expenses charged to construction of $(75,257).

The second component of operating revenue deductions on which the two witnesses disagree is the proper level of depreciation and amortization expense. Company witness Rowan presented an amount of $619,262, while Staff witness Toms presented an amount of $611,910 as depreciation and amortization. The difference of $7,352 is due to an adjustment by Staff witness Toms. Staff witness Toms testified that he made the $7,352 downward adjustment to the depreciation and amortization account because the Company would not incur this extraordinary retirement expense relative to the 1973 loss in the future. He further testified that the Commission granted the Company permission to amortize this expense over a three-year period in Docket No. P-44, Sub 65, and that since the final write-off occurred during the month of December 1975 the nonrecurring expense should be removed from operating expenses for the purpose of setting rates for the future.

The Commission concludes, based on the testimony presented above, that the rates in this proceeding should be set on a level of expenses that are expected to be experienced by the

Company in the future. Old Town will not be amortizing this 1973 loss in the future; therefore, the Commission concludes that the adjustment made by Staff witness Toms decreasing the depreciation and amortization amount by $7,352 is proper.

The Commission concludes from the examination made and conclusions reached regarding the adjustment presented by Staff witness Toms that the appropriate level of depreciation and amortization to be used in this proceeding as an operating revenue deduction is $61,910.

The third operating revenue deduction upon which the witnesses disagree is other operating taxes. The amount presented by Company witness Rowan of $199,482 is $3,795 less than the amount of $203,277 presented by Staff witness Toms. The $3,795 difference results from the following adjustments proposed by Staff witness Toms:

	Item	Amount
(1)	Adjustment to increase FICA taxes resulting from Company's end-of-period wage adjustment	$1,160
(2)	Adjustment to increase end-of-period property taxes	1,003
(3)	Adjustment to increase end-of-period gross receipts taxes	1,632
		$3,795

Staff witness Toms testified that Company witness Rowan erroneously omitted the $1,160 adjustment for FICA taxes associated with the Company's end-of-period wage adjustment. Staff witness Toms accepted Company witness Rowan's adjustment to wages. The Commission concludes that FICA taxes associated with Company witness Rowan's end-of-period wage adjustment should have been included in other operating taxes and that the adjustment presented by Staff witness Toms to increase other operating taxes by $1,160 is proper.

The next adjustment proposed by Staff witness Toms increases end-of-period property tax expense by $1,003 and was based on actual assessed property valuations and 1976 property tax rates, applicable to December 31, 1975, property as ascertained from the appropriate taxing authorities. Staff witness Toms testified that this adjustment was necessary because Company witness Rowan based his adjustment on estimated property valuations and tax rates which were available to him at the time his testimony and schedules were prepared. The Commission concurs with Staff witness Toms' $1,003 adjustment to property tax expense because his adjustment is based on actual 1976 tax valuations and rates and results in a more accurate level of

property tax expense than Company witness Rowan's adjustment, which was based on estimated amounts.

The final adjustment of $1,632 made by Staff witness Toms to taxes other than income concerns an adjustment to gross receipts taxes. Both Company witness Rowan and Staff witness Toms proposed an end-of-period gross receipts tax adjustment resulting from their adjustments to end-of-period local service and intrastate toll service revenues. The Commission has previously accepted the revenue adjustments of Staff witnesses Gerringer and Toms and concludes that these adjusted revenue amounts are appropriate for use in determining the amount of the end-of-period gross receipts tax adjustment. Upon examination of the facts presented, the Commission concludes that Staff witness Toms' gross receipts tax adjustment of $1,632 is proper.

Based upon the examination made and conclusions reached regarding the adjustments proposed by Staff witness Toms, the Commission concludes that the appropriate level of other operating taxes to be used in this proceeding as an operating revenue deduction is $203,277.

The next area of difference in the determination of total operating revenue deductions concerns the amount of test period State and Federal income tax expense. Company witness Rowan testified that the end-of-period level of State and Federal income taxes was a negative amount of $20,418 while Staff witness Toms testified that the level was a positive amount of $20,745. The witnesses' income tax amounts were different because different levels of operating revenues and operating revenue deductions were claimed by each witness in computing taxable income. These differences in operating revenues and operating revenue deductions have previously been discussed and the Commission accepted all amounts of operating revenues and operating revenue deductions as recommended by Staff witness Toms. In addition to the proper amounts of operating revenues and operating revenues to be considered in arriving at taxable income, there is one additional item which must be considered. This item is interest expense which the Commission will now discuss. Company witness Rowan and Staff witness Toms each used a different amount of interest expense as a deduction in arriving at taxable income. Company witness Rowan calculated the going level annual interest expense based on debt outstanding at the end of the test year and allocated 91.16% of this amount, or $281,025, to intrastate operations, based on his ratio of intrastate telephone plant in service to total telephone plant in service. Staff witness Toms used interest expense of $246,666 which he calculated as the interest expense on the end-of-period debt capital supporting the intrastate original cost net investment which he computed on Toms Exhibit 1, Schedule 2. The Commission finds that the amount of interest expense used by Staff witness Toms is the appropriate amount. Company witness Rowan allocated total capital to intrastate operations based on the ratio of

intrastate plant in service to total plant in service, thereby overstating his interest expense amount by including interest on debt capital which supports nonrate base assets. It is clearly inappropriate to deduct interest expense on debt which has financed nonrate base assets. The interest expense which should be deducted in determining income taxes and net income for common equity for the purpose of establishing utility rates is the interest expense on the debt which has financed the original cost net investment. This is the method of determining interest expense used by Staff witness Toms.

The Commission therefore concludes that $246,666 as recommended by Staff witness Toms and calculated on Schedule II of this Order is the proper amount of the interest deduction for use in the calculation of State and Federal income taxes. The Commission further concludes that the proper amounts of State and Federal income taxes to be used for the purpose of setting rates in this proceeding are $4,930 and $15,815, respectively.

The final operating revenue deduction upon which the two witnesses are in disagreement is interest on customer deposits. Company witness Rowan did not include any amount of interest on customer deposits as an operating expense while Staff witness Toms included an end-of-period amount of $1,036. The Commission has previously concluded that end-of-period customer deposits should be included as a reduction of the working capital allowance and now concludes that it is proper to include $1,036 of end-of-period interest on these deposits as an operating revenue deduction with the result that Old Town will be allowed to recover only its cost of these customer supplied funds.

Based on the testimony and evidence presented in this case which was discussed above, the Commission concludes that the proper level of total operating revenue deductions is $1,638,174.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

Two witnesses were presented in the area of the Cost of Capital/Fair Rate of Return. The Company offered John J. Jaquette, Chairman of the Board of Associated Utility Services, Inc.; Edwin A. Rosenberg, an economist in the Operations Analysis Section, was presented by the Staff. Each witness testified as to the results of a study which he made to determine the cost of capital to the Company and, based on his study, made a recommendation to the Commission as to a reasonable return on the capital invested in the Company. Both witnesses testified that the cost of capital, while the most important aspect, was not the only factor in the determination of the fair rate of return. Mr. Rosenberg cited the excess of fair value over the net original cost investment and factors relating to the efficiency of operation within the Company. Mr. Jaquette stressed the effects of attrition and regulatory lag on the fair rate of

return as contrasted with the cost of capital. He also noted the effects of the fair value increment and recommended a return on fair value rate base, assuming equal weight for net and trended original cost investment figures as supplied by the Company. The Company additionally offered, through Mr. Jaquette, rebuttal testimony concerning the use of the Discounted Cash Flow technique by Mr. Rosenberg.

Both Mr. Jaquette and Mr. Rosenberg start their studies by stating the criteria which a fair rate of return must meet as enunciated in G.S. 62-133 and in various decisions of the Courts. A fair rate of return is one which allows a utility the opportunity to earn a return which will enable the utility to satisfy the requirements of its investors and its customers on a continuing basis at the lowest possible rate of return. Each witness recommended a rate of return which he considered to meet the above standard.

Their final recommendation of the overall cost of capital to the Company was 6.04% for Mr. Rosenberg and a range of 6.25% to 6.40% for Mr. Jaquette. (These figures used for comparison are based on original cost net investment because the assumed fair value rate base used by Mr. Jaquette differs substantially from that adopted.) The reasons for the differing recommendations by the two witnesses may be found in the choice of slightly different capital structures and in different estimates of the cost of equity to the Company. Mr. Jaquette used the projected year-end 1976 capital structure while Mr. Rosenberg used the end of test year values. Because the differences between the two were minimal and because the test-period ratios reflect actual conditions, the test-period figures, as used by Mr. Rosenberg and Mr. Toms of the Accounting Staff, will be adopted for use in this case. That net original cost capital structure is:

Class of Capital	% of Total
Long-term Debt	76.71%
Cost-free Capital	1.71%
Common Equity	21.58%
Total	100.00%

The embedded cost rate for the long-term debt used by both witnesses was 3.65% and will be adopted herein.

The difference between the two witnesses' recommendations in the area of the cost of common equity was not slight. Mr. Jaquette recommended a return on common equity in the range of 18% to 20% as compared with Mr. Rosenberg's recommended return of 15%. In arriving at his recommendation, Mr. Jaquette studied the achieved returns of regulated and nonregulated firms, the spread between debt and equity returns, relative earnings price ratios, Discounted Cash Flow analysis, relative risk measures, and

the effect of the relatively low equity ratio of the Company on the cost of equity. Mr. Rosenberg applied the Discounted Cash Flow technique to a group of 13 telephone utilities and telephone holding companies and adjusted his result for the low equity ratio of the Company.

The 18% to 20% recommendation of Mr. Jaquette seems inappropriate and beyond the zone of reasonableness. He attempted to measure the cost of equity by the earnings price ratio, although he stated that the earnings price ratio is less than the total cost of equity because it ignores the growth factor. This use of the earnings price ratio is rejected. There is no substantiation other than Mr. Jaquette's assertion that this ratio is in fact a reliable measure of the cost of equity capital. If that were the case, the earnings price ratios during the 1960's for Old Town's parent, Mid-Continent Telephone Corp., would have led to the conclusion that its cost of equity was as low as 4%. Such a figure cannot now be presented as the cost of equity nor would it have been presented as such at the time. Mr. Jaquette acknowledged that, at times, this ratio ignores the growth component and may understate the total cost of equity. He was less certain, however, as to whether or not this ratio might at times overstate the total cost of equity. Because Mr. Jaquette did not adequately demonstrate how the inclusion of growth rates in his analysis of earnings price ratio would affect the estimated cost of equity even though he stated that they would have an effect, we must reject his use of this technique in this case. If a technique is known to be often in error, the results of a study based on the application of the technique cannot be considered valid for the purpose of the determination of rates to be charged the people of North Carolina. We simply cannot accept conclusions drawn from such a study.

Mr. Jaquette also developed a regression model which he applied to the earnings price ratios of American Telephone and Telegraph Company. This regression was designed to show the effects of the declining equity ratio of the Bell System on its earnings price ratio and, thus, the cost of equity. Mr. Jaquette admitted under cross-examination that this regression ignored the effects of such factors as interest rates, inflation, and general market declines. Because such obviously important factors were ignored, we must reject Mr. Jaquette's regression model.

Mr. Rosenberg's recommendations were based on his application of the Discounted Cash Flow technique to a group of 13 telephone utilities and telephone holding companies. This technique has been frequently presented before this Commission, and, properly applied, this technique can give an indication of the cost of equity capital. The technique is itself, however, susceptible to possible error-producing problems. The choice of the growth rate to be used in the formula must be made with great case lest an erroneous conclusion be reached. Mr. Rosenberg and Mr. Jaquette both

stated that is was possible to derive substantially different conclusions using the Discounted Cash Flow technique depending solely on the growth rate chosen. It appears, however, that Mr. Rosenberg attempted to recognize the critical nature of the proper choice of growth rates by including five different growth rates for each of his companies.

The two witnesses differed also on the issue of how much allowance should be made in the return on equity to account for the costs of selling new securities and the low equity ratio of Old Town. We agree with Mr. Rosenberg that the issuance costs of new stock to Old Town are not likely to be the same as for a similarly situated but unaffiliated independent telephone utility. To allow this Company (Old Town) the same margin of protection is unwarranted. There was no evidence presented to demonstrate that the costs of obtaining additional equity for Old Town are such that the level of protection recommended by Mr. Jaquette can be accepted as required.

Both witnesses also made an adjustment in their recommendations to account for the low equity ratio of the Company. Mr. Jaquette based his adjustment on the theory of Professors Modigliani and Miller as found in their 1958 work. There is some controversy as to the validity and applicability of this theory. It is clear that some adjustment must be made although the size of such an adjustment should vary with the particular firm under study. There is clearly less risk involved when a utility adopts a highly leveraged capital structure than when an industrial firm adopts the same structure. There is also less risk in the adoption of such a capital structure when there is a financial affiliation with a parent corporation and when the embedded cost of debt is low. This Company is affiliated with the Mid-Continent System, its long-term debt is largely REA financing, and, thus, the risks associated with the adoption of the leveraged capital structure are mitigated to some degree.

Given the evidence presented in this proceeding, we reach the conclusion that were the Company able to earn a return on its book common equity in the range of 15% it would be able to discharge its obligations to both its investors and its ratepayers. Rates are not, however, set based on the original cost investment. They are set based on the fair value rate base, but the effect on book returns, the only objective standard of comparison between firms and the only returns reported to the investors, cannot be ignored. We conclude that a return of 5.70% on the fair value rate base as adopted is just and reasonable. This rate results in a return of 11.84% in the fair value common equity.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

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, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments and conclusions heretofore and herein made by the Commission.

SCHEDULE I
THE OLD TOWN TELEPHONE SYSTEM, INC.
DOCKET NO. P-44, SUB 77
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED MARCH 31, 1976

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Subscriber station revenues	$ 1,572,475	$488,864	$ 2,061,339
Toll service revenues	324,165		324,165
Miscellaneous operating revenues	66,011		66,011
Uncollectible operating revenues - debit	16,385	4,889	21,274
Total operating revenues	1,946,266	483,975	2,430,241
Operating Revenue Deductions			
Maintenance expenses	331,918		331,918
Traffic expenses	38,230		38,230
Commercial expenses	136,694		136,694
General office and salaries expense	206,239		206,239
Other operating expenses	163,382		163,382
Expenses charged to construction	(75,257)		(75,257)
Total operating revenue deductions	801,206		801,206
Depreciation and amortization	611,910		611,910
Other operating taxes	203,277	29,039	232,316
State income taxes	4,930	27,296	32,226
Federal income taxes	15,815	205,267	221,082
Interest on customer deposits	1,036		1,036
Total operating revenue deductions	1,638,174	261,602	1,899,776
Net operating income for return	$ 308,092	$222,373	$ 530,465

Investment In Telephone Plant			
Telephone plant in service	$11,820,651		$11,820,651
Less: Accumulated depreciation	3,274,586		3,274,586
Net investment in telephone plant in service	8,546,065		8,546,065
Allowance For Working Capital			
Material and supplies	45,617		45,617
Cash	66,854		66,854
Average prepayments	2,540		2,540
Less: Average tax accruals	31,065		31,065
Customer deposits	17,258		17,258
Total Working Capital Allowance	66,688		66,688
Investment in rural telephone bank stock	197,014		197,014
Net investment in telephone plant in service, plus investment in rural telephone bank stock, and allowance for working capital	$ 8,809,767		$ 8,809,767
Fair value rate base	$ 9,306,396		$ 9,306,396
Rate of return on fair value rate base	3.31%		5.70%

SCHEDULE II
THE OLD TOWN TELEPHONE SYSTEM, INC.
DOCKET NO. P-44, SUB 77
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED MARCH 31, 1976

		Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity %	Net Operating Income
Capitalization		Present Rates - Fair Value Rate Base			
Total debt		$6,757,972	72.62	3.65	$246,666
Common equity					
Book	$1,670,332				
Job development credit	230,816				
Fair value increment	496,629	2,397,777	25.76	2.56	61,426
Cost-free capital		150,647	1.62		
Total		$9,306,396	100.00		$308,092
		Approved Rates - Fair Value Rate Base			
Total debt		$6,757,972	72.62	3.65	$246,666
Common equity					
Book	$1,670,332				
Job development credit	230,816				
Fair value increment	496,629	2,397,777	25.76	11.84	283,799
Cost-free capital		150,647	1.62		
Total		$9,306,396	100.00		$530,465

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

Frank E. Via, Vice President and General Manager of The Old Town Telephone System, Inc., testified regarding the Applicant's proposed rate schedules. He proposed changes for local service, miscellaneous rates, and service connection charges. Mr. Via submitted the ratio of business to residence rates of 2.5 to 1. Mr. Via also proposed an increase in the local coin rate to 20¢ from the present 10¢.

William J. Willis, Jr., Rates and Tariff Engineer 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. Willis testified that the Company's proposal to group all exchanges in the same manner due to the small difference in calling scope between the exchanges was reasonable.

In regard to the Applicant's proposal in rates for rotary line rates, Mr. Willis testified that he would prefer to limit the application of a rotary rate to rotary lines not terminated in key systems, multiline sets or PBX switchboards and that the rotary arrangement should be included in the key trunk and PBX trunk rates without an additional additive. Mr. Willis stated he would prefer to expand the key trunk definition to include central officel lines terminating in three-line sets and single-button sets as well as central office lines terminating in key systems. Mr. Willis 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 cost which would keep pace with marketing methods and other changes that may follow from the FCC's equipment registration program. Mr. Willis supported the Applicant's proposals for an increase in the local coin rate. Mr. Willis further recommended a change in the procedure for rating mileage services such as extension line, tie line and local private line service from route to a direct airline method.

Mr. Willis further proposed changes in rates either for miscellaneous items for which he has cost information from other companies or for items which are offered at rates which are out of line with rates of other companies.

Based on the testimony and exhibits of Mr. Via and Mr. Willis, the Commission reaches the following conclusions with regard to the rates and charges to be approved for The Old Town Telephone System, Inc.:

1. Basic Rate Schedule

   (a) The Commission concludes that the ratio between business and residential individual line rates should be increased to 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 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 Old Town's 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 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 this is a large percentage 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. 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. 18

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 (over 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 charging for directory assistance inquiries is 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 $18,928 and increased revenues of $2,486.

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. This D.A. plan is considered experimental until further order relating to this service and until a statewide D.A. charging plan is adopted for all regulated telephone companies in North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, The Old Town Telephone System, Inc., be, and hereby is, authorized to increase its North Carolina local exchange rates and charges to produce additional annual gross revenues not to exceed $488,864 based upon stations and operations as of March 31, 1976, as hereinafter set forth in Appendices A, B, and C.

2. That the rates, charges, and regulations set forth in Appendices A, B, and C, attached hereto, which will produce additional gross revenues of approximately $488,864 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 days from the date of this Order the necessary revised tariffs reflecting the above changes in rates, charges, and regulations shown in Appendices A and B. Revised tariffs reflecting the provisions in Appendix C shall be filed 30 days prior to the effective date of said provisions.

4. 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.

5. That the Applicant is authorized to begin directory assistance charges in accordance with Appendix C attached hereto within 62 days of this Order and after the NOTICE attached as Appendix D is given to its subscribers as a bill insert or direct mailing within 15 or more days before directory assistance charges become effective. That Old Town shall within 30 days after directory assistance charges become effective mail as a bill insert the REMINDER, also a part of Appendix D, 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 Old Town shall place in its telephone directories the directory information included in Appendix D relating to directory assistance charges.

ISSUED BY ORDER OF THE COMMISSION.
This 1st day of February, 1977.

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

APPENDIX A
THE OLD TOWN TELEPHONE SYSTEM, INC.
DOCKET NO. P-44, SUB 77

BASIC LOCAL SERVICE

	Monthly Rate
Residence Individual Line	$ 8.65
Business Individual Line	21.50

OTHER LOCAL SERVICES

Key Trunk	
Business	26.85
Residence	10.80
PBX Trunk	2.0 times the applicable individual line rate

DIRECTORY LISTINGS

	Nonrecurring Charge	Monthly Rate
Additional Listings		
Business		$ 1.00
Residence		.60
Non-Listed Numbers		1.10
Non-Published Numbers		1.10

COIN TELEPHONE SERVICE

Local Message Charge $.20

Note: For the remainder of Appendix A and Appendices B, C, and D, see the official Order in the Office of the Chief Clerk.

DOCKET NO. P-35, SUB 66

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Mebane Home Telephone Company - Order for Deletion of Warning in Telephone Directory Against Use of Advertising Binders or Covers on Telephone Directories	) ORDER FOR) COMPLIANCE WITH) DECISION OF THE) SUPREME COURT

BY THE COMMISSION: Upon consideration of the records of the Commission and the decision of the Supreme Court in Utilities Commission v. Merchandising Corporation, 288 N.C. 715 (1975), holding that telephone companies may not prohibit attachment of advertising binders or covers of telephone directories, and the Commission finding from its records and from informal complaint that the October 1976 telephone directory for Mebane Home Telephone Company is in violation of the above decision of the Supreme Court, and that the current tariffs of Mebane Home Telephone Company authorizing the prohibition of directory covers and binders is in violation of said decision of the Supreme Court, and the Commission finding that Mebane Home Telephone Company should be ordered to correct its tariffs and to issue a correction notice to its subscribers regarding the October 1976 directory in compliance with said decision of the Supreme Court,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Mebane Home Telephone Company shall file revised tariffs no later than October 30, 1977, removing any prohibition against advertising binders or covers for its telephone directories in accordance with the above decision of the Supreme Court.

2. That Mebane Home Telephone Company shall issue and distribute to its subscribers in its next monthly bill cycle a correction notice advising said subscribers that the warning contained on page (1) of its October 1976 directory and the prohibition appearing on the inside front cover of said directory purporting to prohibit advertising binders or covers is invalid and of no further force and effect and should be disregarded by the customers of Mebane Home Telephone Company.

3. That all future telephone directories of Mebane Home Telephone Company shall comply with the decision of the Supreme Court and shall contain no warning against advertising binders or covers, and Mebane Home Telephone Company shall promptly notify the Commission of the status of its publication of its October 1977 directory, and if said directory has already been printed and bound with such a warning, Mebane Home Telephone Company shall take all reasonable methods to remove said warning, or in lieu thereof, to place a notice in said directory advising its customers that said warning against advertising binders and covers is invalid and of no force and effect.

ISSUED BY ORDER OF THE COMMISSION.
This 18th day of October, 1977.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

DOCKET NO. W-635

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Buffaloe Water Systems, Inc., Route 3, Raleigh, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Nottingham Forest Subdivision, Wake County, North Carolina, and for Approval of Rates	) RECOMMENDED ORDER GRANTING FRANCHISE AND APPROVING RATES

HEARD IN: Commission Conference Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, June 23, 1977, at 11:00 A.M.

BEFORE: Hearing Examiner Robert F. Page

APPEARANCES:

For the Applicant:

Carolyn P. Buffaloe

For the Commission Staff:

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

PAGE, HEARING EXAMINER: On April 6, 1977, the Applicant, Buffaloe Water Systems, Inc., filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide water utility service in Nottingham Forest Subdivision, Wake County, North Carolina, and for approval of rates.

By Order issued on April 20, 1977, the Commission granted the Applicant Temporary Operating Authority, 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 Nottingham Forest Subdivision by the Applicant and was published in the News & Observer, Raleigh, North Carolina, advising that anyone desiring to intervene or to protest the application was required to file such intervention or 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 specified in the Commission's Order in the Commission Conference Room, Second Floor, Dobbs Building, Raleigh, North Carolina. John Blankenship and Carolyn P. Buffalce appeared at the hearing as witnesses for the Applicant and presented testimony in support of the application. No one appeared at the hearing to protest the application.

Based on the information contained in the verified application, the testimony presented at the hearing, and the Commission's files and records of this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. The Applicant, Buffaloe Water Systems, 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 Nottingham Forest Subdivision, Wake County, North Carolina, and has filed a Schedule of Rates for said service.

3. Nottingham Forest Subdivision is a residential subdivision consisting of one street and approximately 48 lots. The subdivision is located on S. R. 2727 between U.S. 401 and N. C. 50, south of Garner.

4. The Applicant has initially installed water mains capable of serving approximately 43 customers in the subdivision. The Applicant proposes to meter the water service.

5. The Applicant has entered into agreements securing ownership or control of the water system and of the sites for the wells.

6. There will be 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 quality of the untreated water does meet the U.S. Public Health Drinking Water Standards with respect to physical and chemical characteristics.

8. The water system plans are approved by the Division of Health Services.

9. The annual revenues, based on the proposed metered rates and on 4 customers, would be approximately $384 for water service.

10. The Applicant lists its net investment in water utility plant as $25,436, 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 on the monthly billing statements. The Applicant's service manager will be listed in the telephone book for the proposed service area as John Blankenship.

CONCLUSIONS

There is a demand and need for water utility service in Nottingham Forest Subdivision which can best be met by the Applicant.

The initial rates approved by the Commission for water utility service in Nottingham Forest 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 Nottingham Forest Subdivision is acceptable.

The tap fee proposed by the Applicant would allow the Applicant to recover sums in excess of the original capital investment. Accordingly, the tap fee should be adjusted as outlined in the Schedule of Rates attached hereto.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Buffaloe Water Systems, Inc., is hereby granted a Certificate of Public Convenience and Necessity in order to provide water utility service in Nottingham Forest Subdivision, as described herein and, more particularly, as described in the application made a part hereof by reference.

2. That this Order in itself shall constitute the Certificate of Public Convenience and Necessity.

3. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

4. 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 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.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of June, 1977.

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

APPENDIX "A"
BUFFALOE WATER SYSTEMS, INC.
Nottingham Forest Subdivision in Wake County

WATER RATE SCHEDULE

METERED RATES: (Residential Service)

Up to first 3,000 gallons per month - $5.00 minimum
All over 3,000 gallons per month - 1.00 per 1,000 gallons

FLAT RATE: (Residential Service)

Minimum rate under metered rates until such time as meters are installed for all customers.

CONNECTION CHARGES: $300.

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-635 ON JUNE 30, 1977.

DOCKET NO. W-633

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Gresham's Lake Utility Company, Inc., Post Office Box 18406, Raleigh, North Carolina, for a Certificate of Public Convenience and Necessity to Furnish Water and Sewer Utility Service in Gresham's Lake Industrial Park, Wake County, North Carolina, and for Approval of Rates) ORDER GRANTING CERTIFICATE AND APPROVING RATES

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, June 9, 1977, at 10:00 A.M.

BEFORE: Chairman Tenney I. Deane, Jr., Presiding and Commissioners Ben E. Roney, Barbara A. Simpson, W. Lester Teal, Jr., Leigh H. Hammond and Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

Marvin D. Musselwhite, Jr., Poyner, Geraghty, Hartsfield & Townsend, Attorneys at Law, 615 Cherlin Road, Raleigh, North Carolina

For the Intervenor:

M. Marshall Happer III, Manning, Fulton & Skinner, Attorneys at Law, P. O. Box 1150, Raleigh, North Carolina 27602
For: Super Dollar Stores, Inc.

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, N. C. Utilities Commission, Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: By application filed with the Commission on March 28, 1977, the Applicant, Gresham's Lake Utility Company, Inc., Post Office Box 18406, Raleigh, North Carolina, seeks a franchise to provide water and sewer utility service in the Gresham's Lake Industrial Park, Wake County, North Carolina, and for approval of rates. By Order issued April 6, 1977, the matter was scheduled for public hearing and the Applicant was required to give public notice of the application.

By Order issued April 13, 1977, intervention of M. Marshall Happer III, of Manning, Fulton & Skinner, Attorneys at Law, Raleigh, North Carolina, on behalf of Super Dollar Stores, Inc., was allowed.

By Order issued April 29, 1977, Applicant was granted an extension of time for publication of the notice to the public.

By Order issued May 18, 1977, the hearing was continued to the captioned time and place.

The public notice was given as required by the Commission.

The matter came on for public hearing at the time and place scheduled. The Applicant offered the following

witness who testified at the hearing in support of the application: Mr. Courtney R. Mauzey, Jr., President of Gresham's Lake Utility Company, Inc.

The Intervenor offered the testimony of Jim Woodall, a representative of Carolina Power & Light Company, and George Culbertson, Executive Vice-President of Super Dollar Stores, Inc. No other witnesses appeared to give testimony.

Based on the information in the application, in the Commission's file and all the testimony and exhibits offered at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That Gresham's Lake Utility filed an application with the Commission on March 28, 1977, seeking a Certificate of Public Convenience and Necessity to provide water, sewer and fire protection service in Gresham's Lake Industrial Park, Wake County, North Carolina.

2. That testimony and exhibits indicated that the estimated expenses for water and sewer service are not excessive.

3. That the ratio of appraised value of land versus the appraised value of the water and sewer systems applied to the actual purchase price indicates that the alleged investment of $60,000.00 for the water system and $40,000.00 for the sewer system is not excessive.

4. That the proposed rates are based on the estimated expenses and the estimated investment, which are considered reasonable. At best, the resulting revenues will cover the expenses at full development of the project, and, at worst, the revenues will fall far short of the expenses at the present uncompleted development stage.

5. That at the present time, there are only two customers occupying approximately one-half of the acreage to be developed. At full development, there will be approximately thirty-one lots served by the Applicant. Additional investment will be required in order for the systems to serve the entire thirty-one lots at full development.

6. That the Applicant acquired the water and sewer systems as part of a package which included the real estate portion of the Industrial Park. Since acquisition of the property is an inherent speculative venture, and since it is possible for the present owner of the development company to recover the cost of the water and sewer systems in the sale price of the industrial lots within the development, it is not required that the water and sewer systems be financed by tap fees rather than be financed in the traditional manner used by the major utility companies. However, recognizing that some additional investment will be required to extend

the facilities to each industrial lot, a tap fee of $1,000 per lot would be appropriate.

7. That the Applicant is ready, willing and able to provide water and sewer service in the development, and no one else is proposing to furnish said service. There is a current need in the development for continuation of the service.

8. That the Applicant's arrangements for maintenance and emergency service for the water and sewer systems are approved.

9. That the water and sewer system plans are approved by the appropriate State regulatory agencies.

CONCLUSIONS

There is a demand and need for public utility water and sewer service in the proposed service area which can best be served by the Applicant.

The proposed rates are just and reasonable and the facilities and source of supply which the applicant proposes to operate should be adequate to supply the reasonable demand of the customers for water, sewer and fire protection service in the proposed service area.

The present and above mentioned arrangements for emergency service should be adequate for the needs of the Applicant's customers.

The Commission is of the opinion that Super Dollar Stores, Inc., has been and continues to be a user of the water and sewer service, and Commission policy has been to disallow supplemental tap fees to be charged to existing users of utility systems. Therefore, Super Dollar Stores, Inc., should not be required to pay any tap-on fees for continued water and sewer service.

IT IS, THEREFORE, ORDERED:

1. That a Certificate of Public Convenience and Necessity be, and hereby is, granted to Gresham's Lake Utility Company to provide water, sewer and fire protection service in Gresham's Lake Industrial Park, Wake County, North Carolina.

2. That this Order of itself constitute the Certificate of Public Convenience and Necessity.

3. That the schedule of rates attached hereto as Appendix A be, and hereby is, approved; and that said schedule of rates is hereby deemed to be filed with the Commission pursuant to G.S. 63-138; and that said schedule of rates is hereby authorized to become effective as of the date of this Order.

4. That the books and records of the Applicant shall be kept in accordance with the Uniform System of Accounts established by the Commission for water and sewer utilities and the Rules and Regulations of the North Carolina Utilities Commission.

5. That the Applicant is hereby required to continue furnishing water, sewer and fire protection service to its present users without charging the approved tap-on fee for as long as the present users subscribe to the service.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of June, 1977.

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

APPENDIX "A"
DOCKET NO. W-633
Gresham's Lake Utility Company, Inc.
Gresham's Lake Industrial Park

RATE SCHEDULE

Water

METERED RATES: (Domestic Service)

Up to first 5,000 gallons per month - $10.00 minimum
All over 5,000 gallons per month - $1.00 per 1,000 gallons

FLAT RATES: (Fire Protection Service)

$2.17 per 1000 square feet of sprinkled space per month

Sewer

FLAT RATE: (Domestic Service)

$1.49 per employee per month

CONNECTION CHARGES: $1000.00 per tap

RECONNECTION CHARGES:

If water service cut off by utility for good cause - $4.00

If water service discontinued at customer's request - $2.00

If sewer service cut off by utility for good cause - $15.00

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-633 on June 30, 1977.

DOCKET NO. W-641

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by B. E. Matthews Construction Company, Inc., 210 First Avenue, South, Conover, North Carolina 28613, for a Certificate of Public Convenience and Necessity to Furnish Water Utility Service in Twin Valley Subdivision, Catawba County, North Carolina, and for Approval of Rates	) RECOMMENDED ORDER GRANTING FRANCHISE AND APPROVING RATES

HEARD IN: Industrial Commission Conference Room, 6th Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on August 4, 1977

BEFORE: Hearing Examiner Antoinette Ray Wike

APPEARANCES:

For the Applicant: None

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Staff Counsel, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

WIKE, HEARING EXAMINER: On May 12, 1977, the Applicant, B. E. Matthews Construction Company, Inc., filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide water utility service in Twin Valley Subdivision, Catawba County, North Carolina, and for approval of rates.

By Order issued on June 8, 1977, 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 Twin Valley

Subdivision by the Applicant and was published in The Observer-News Enterprise, Newton, North Carolina, advising that anyone desiring to intervene or to protest the application was required to file such intervention or protest with the Commission by the date specified in the notice. No interventions or protests were received by the Commission.

The public hearing was held at the time and place specified in the Commission's Order. Mr. Charles S. Jolly appeared at the hearing as a witness for the Applicant and presented testimony in support of the application. Mr. Harold V. Aiken appeared as a witness for the Public Staff and presented testimony concerning his evaluation of the Applicant's plans for the 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 Examiner now makes the following

FINDINGS OF FACT

1. The Applicant, B. E. Matthews Construction Company, Inc., is a corporation duly organized under the laws of the State of North Carolina and is authorized under its Articles of Incorporation to engage in the operation of public utilities, as defined in G.S. 62-3.

2. The Applicant proposes to furnish water utility service in Twin Valley Subdivision, Catawba County, North Carolina, and has filed a Schedule of Rates for said service.

3. Twin Valley Subdivision is a residential subdivision consisting of approximately 3 streets and approximately 37 lots. The subdivision is located on S. R. 1484, north of I-40, and west of N. C. 16 near Conover.

4. The Applicant has initially installed water mains capable of serving approximately 37 customers in the subdivision. The Applicant proposes to meter the water service for all customers.

5. The Applicant has entered into agreements securing ownership or control of the water system and of the sites for the wells.

6. There will be 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 quality of the untreated water does meet the U.S. Public Health Drinking Water Standards with respect to physical and chemical characteristics.

8. The water system plans are approved by the Division of Health Services.

9. The annual revenues, based on the proposed metered rates and on 11 customers, would be approximately $1,320 for water service.

10. Mr. Jolly testified that the cost of the water system was included in the purchase price of the lots and that the proposed tap-fee was to cover the cost of meters and their installation. Mr. Jolly also testified that the proposed metered rates and tap-fee were based on water rates charged by the City of Conover.

11. The Applicant lists its net investment in water utility plant as approximately $11,000, based on an unverified balance sheet contained in the application.

12. The Applicant is a construction company and will provide maintenance and repair service to the water system in the subdivision.

13. 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 on the monthly billing statements. The Applicant will be listed in the telephone book for the proposed service area as B. E. Matthews Construction Company, Inc.

CONCLUSIONS

There will be a demand and need for water utility service in Twin Valley Subdivision which can best be met by the Applicant.

The initial rates approved by the Commission for water utility service in Twin Valley 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 Twin Valley Subdivision is acceptable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, B. E. Matthews Construction Co., Inc., is hereby granted a Certificate of Public Convenience and Necessity in order to provide water utility service in

Twin Valley Subdivision, as described herein and, more particularly, as described in the application made a part hereof by reference.

2. That this Order in itself shall constitute the Certificate of Public Convenience and Necessity.

3. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

4. 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 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.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of August, 1977.

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

APPENDIX "A"
B. E. MATTHEWS CONSTRUCTION COMPANY, INC.
Twin Valley Subdivision in Catawba County

WATER RATE SCHEDULE

METERED RATES: (Residential Service)

Up to first 3,000 gallons per month - $5.00 minimum
All over 3,000 gallons per month - $1.00 per 1,000 gallons

CONNECTION CHARGES: $100.00

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: Twenty-five (25) 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-641 on AUGUST 18, 1977.

DOCKET NO. W-312, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Buffalo Meadows Utility, Post Office Box 107, Blowing Rock, North Carolina, for Authority to Increase Rates for Water and Sewer Utility Service in Buffalo Meadows Subdivision, Ashe County, North Carolina	) RECOMMENDED ORDER GRANTING RATE INCREASE

HEARD IN: Courtroom, Watauga County Courthouse, West King Street, Boone, North Carolina, on Tuesday, February 22, 1977

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Applicant:

Dr. J. P. Lyons, for himself

For the Commission Staff:

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: On November 1, 1976, the Applicant, Buffalo Meadows Utility, filed an application with the North Carolina Utilities Commission for authority to increase its rates for water and sewer utility service.

By Order issued on November 10, 1976, 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.

Public notice was furnished to each customer by the Applicant and was published in The Skyland Post, West

Jefferson, North Carolina, advising that anyone desiring to protest the application or to intervene should file such protest by the date specified in the notice. No letters of protest or notices of intervention were received by the Commission.

In response to a customer request, the Commission by Order issued on February 2, 1977, rescheduled the public hearing to Boone, North Carolina, where it was subsequently held.

The Applicant offered the testimony of J. F. Lyons, M. D., Jimmy Lyons, and Paul Vannoy who testified in support of the application for increased rates.

The Commission Staff offered the testimony of Jesse Kent, Jr., Staff Accountant, who testified on the original cost net investment, revenue, and expenses of the Applicant, and Richard W. Seekamp, Staff Engineer.

No customers appeared at the hearing to protest the application.

Based on the information in the application and in the Commission's files and on the testimony and exhibits presented at the hearing, the Commission makes the following

FINDINGS OF FACT

1. Buffalo Meadows Utility Company was granted a Certificate of Public Convenience and Necessity to provide water utility service in Buffalo Meadows Subdivision by Commission Order issued on January 4, 1972, in Docket No. W-312.

WATER PLANT

2. That the original cost of the water plant in service is $28,672.

3. That to the original cost figure of the water plant the cash working capital of $353 is added to produce a total investment of $29,025.

4. That from the total investment figure the accumulated depreciation of $1,001, the contributions-in-aid of construction of $14,000, and the average tax accruals of $14, or a total of $15,015, is subtracted from the total investment of $29,025 to produce an original cost net investment of $14,010.

5. That the Applicant's revenues for water service under its present rates for the test period were $2,100.

6. That the Applicant would collect $2,520 in revenues under its proposed rates.

7. That the Applicant's operating expenses for the test period, after Staff adjustments, totaled $3,584.

8. That had the Applicant's proposed rates been in effect during the test period, the Applicant's total operating expenses would have totaled $3,600.

9. That under the Applicant's present rates the test period operating ratio for the water system was 170.67% and its rate of return was a negative (10.59%).

10. That under the Applicant's proposed rates the test period operating ratio for the water system would be 142.86% and its rate of return would be a negative (7.71%).

SEWER PLANT

11. That the original cost of the sewer plant in service is $45,209.

12. That to the original cost figure the cash working capital of $1,059 is added to produce a total investment of $46,268.

13. That from the total investment figure the accumulated depreciation reserve of $2,409, the contributions-in-aid of construction of $14,000 and the average tax accruals of $21 are subtracted to produce an original cost net investment of $29,838.

14. That the Applicant's revenues under its present rates for the test period were $2,100.

15. That the Applicant would collect $2,520 in revenues under its proposed rates.

16. That the Applicant's operating expenses for the test period, after Staff adjustments, totaled $10,723.

17. That had the Applicant's proposed rates been in effect during the test period, the Applicant's operating expenses would have totaled $10,739.

18. That under the Applicant's present rates the test-period operating ratio for the sewer system was 510.62% and its rate of return was a negative (28.90%).

19. That under the Applicant's proposed rates the test-period operating ratio for the sewer system would be 426.15% and its rate of return would be a negative (27.55%).

Based on the foregoing Findings of Fact, the Commission now reaches the following

CONCLUSIONS

The Hearing Examiner concludes that since the Applicant's operating ratios under its present rates were 170.67% for the water system and 510.62% for the sewer system, the Applicant is therefore entitled to rate relief. To the extent that the Applicant's proposed rates produce operating ratios of 142.86% for the water system and 426.15% for the sewer system, those proposed rates could not be considered unjust or unreasonable. These rates would result in increased water revenue of $420 and increased sewer revenue of $420.

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.

2. That said Schedule of Rates is hereby authorized to be effective for water and sewer utility service in Buffalo Meadows Subdivision, Ashe County, North Carolina, with the Applicant's next scheduled billing.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of March, 1977.

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

APPENDIX "A"
DOCKET NO. W-312, SUB 2
BUFFALO MEADOWS UTILITY
Buffalo Meadows Subdivision - Ashe County

WATER AND SEWER RATE SCHEDULE

FLAT RATE: (Residential Service)
Water: $6.00 per month.
Sewer: $6.00 per month.

CONNECTION CHARGES: Water: $400 Sewer: $400

RECONNECTION CHARGES: None.

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: None.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-312, Sub 2, on March 9, 1977.

DOCKET NO. W-369, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Goose Creek Utility	) RECOMMENDED
Company, 1221 East Morehead Street,	) ORDER APPROVING
Charlotte, North Carolina, for Authority	) INCREASED RATES
to Increase Rates For Water and Sewer	) AND REQUIRING
Utility Service in Fairfield Subdivision,	) IMPROVEMENTS
Union County, North Carolina	)

HEARD IN: Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Thursday, February 24, 1977

BEFORE: Hearing Examiner Antoinette R. Wike

APPEARANCES:

For the Applicant:

Louis A. Bledsoe, Berry, Bledsoe & Hogewood, Attorneys at Law, One NCNB Plaza, Suite 3601, Charlotte, North Carolina 28280

For the Commission Staff:

Theodore C. Brown, Jr., Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

WIKE, HEARING EXAMINER: On October 18, 1976, Goose Creek Utility Company filed an application with the North Carolina Utilities Commission for authority to increase its rates for water and sewer utility service.

By Order issued on November 5, 1976, 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 on February 24, 1977, and required the Applicant to give public notice of its application. Public notice was furnished to each customer by the Applicant and was published in The Monroe Enquirer-Journal, Monroe, North Carolina, stating that anyone desiring to protest the application or to intervene should file such protest or intervention with the Commission by the date specified in the notice.

The Applicant offered the following witnesses who testified in support of the application: William H. Trotter, Chairman of the Board of Directors and sole stockholder in Goose Creek Utility Company; Robert R. Ingraham, President of Goose Creek Utility Company; and Henry S. Cowell, Jr., an independent accountant in public practice.

The Commission Staff offered the testimony of Jana Hemric, Commission Staff Accountant, who testified on the original cost net investment, revenues and expenses of the Applicant and Richard W. Seekamp, Commission Staff Engineer, who testified concerning the Applicant's utility operation.

Wayne Marsh, Dick Ward, Sue Duggar, Lynn Ansley, and Clovis Hoksch, customers of the Applicant, testified in protest to the proposed rate increase and described problems with the water utility service, specifically hard water, they have received from the Applicant.

Based on the information in the application and in the Commission's official files and on the testimony and exhibits presented at the hearing, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That Goose Creek Utility Company was granted a Certificate of Public Convenience and Necessity to provide water and sewer utility service in Fairfield Subdivision by Commission Order issued on June 26, 1973, in Docket No. W-369.

2. That the Applicant's investment in utility plant in service is $419,770.

3. That the addition of the cash requirement of $2,671 to the plant in service of $419,770 yields a total investment of $422,441.

4. That deduction of the accumulated depreciation reserve of $7,357 and contributed property of $313,338 from the total investment of $422,441 yields an original cost net investment of $101,746.

5. That the Applicant's revenues under its present rates for the test period were $27,914.

6. That the Applicant would have collected $39,095 in revenues under the proposed rates.

7. That the Applicant's reasonable operating expenses, including interest, during the test period were $32,519.

8. That under the proposed rates the Applicant's operating expenses, including interest, would have been $34,543.

9. That, under the Applicant's present rates, the test period return on investment was 1.08% and the operating ratio was 116.50%.

10. That, under the Applicant's proposed rates, the return on investment would be 10.98% and the operating ratio would be 86.02%.

11. That the water provided by the Applicant has a degree of hardness due mainly to the presence of calcium and magnesium compounds which also form incrustation or scale on the metal surfaces found in hot water heaters, humidifiers, coffee percolators, etc.

12. That many customers of the Applicant periodically replace the heating elements in their hot water heaters due to the scaling buildup.

13. That the Applicant estimates that the equipment to neutralize the effects of the hard water would cost $1,800 to $2,000 while maintenance of this equipment would cost $32 per month. (The cost of chemicals for this equipment is unknown.)

14. That the most effective method of controlling hardness is by the sodium ion exchange method which, however, may be detrimental to persons suffering from heart conditions and hardening of the arteries since sodium chloride is used in the process.

Based on the foregoing Findings of Fact, the Hearing Examiner now reaches the following

CONCLUSIONS

The Hearing Examiner concludes that, based upon the Applicant's rate of return of 1.08% and its operating ratio of 116.50% under its present rates, the Applicant is entitled to rate relief. The Examiner further concludes that the evidence in this proceeding demands that the Applicant be required to install water treatment equipment to help alleviate the hardness found in the water it now provides. It is noted that the installation of additional equipment will increase the Applicant's investment and operating expenses thereby lowering the rate of return and increasing the operating ratio. The Hearing Examiner therefore concludes that the Applicant's proposed rates, which would produce a rate of return of 10.98% and an operating ratio of 86.02% without the installation of additional equipment, are just and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved, 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 with the Applicant's next regularly scheduled billing.

2. That the Applicant shall investigate, purchase, and install water treatment equipment which shall help alleviate the hardness problem presently found in its water. Said equipment shall be purchased only after obtaining such approval as is required by the Division of Health Services.

3. That the Applicant shall inform the Commission Staff of the type and specifications of the equipment it selects as required in Paragraph No. 2 above. The Applicant shall further inform the Commission Staff when said equipment is installed.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of March, 1977.

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

APPENDIX "A"
DOCKET NO. W-369, SUB 1
GOOSE CREEK UTILITY COMPANY
Fairfield Subdivision - Union County

WATER AND SEWER RATE SCHEDULE

METERED RATES: (Residential Service)

Water: Up to first 3,000 gallons per month - $7.00 minimum
All over 3,000 gallons per month - $1.20 per 1,000 gal.

Sewer: Up to first 3,000 gallons of water used per month - $8.00 minimum
All over 3,000 gallons per month - $1.40 per 1,000 gal.

CONNECTION CHARGES: $250 - payable by developer.

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
If sewer service cut off by utility for good cause (NCUC Rule R10-16f): $15.00

BILLS DUE: On billing date.

BILLS PAST DUE: Twenty (20) 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-369, Sub 1, on March 28, 1977.

DOCKET NO. W-274, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Heater Utilities, Inc., P. O. Box 549, Cary, North Carolina, for Approval of Increased Rates for Water Utility Service in its Service Area in North Carolina	)	RECOMMENDED ORDER SETTING RATES

HEARD IN: The Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Wednesday, April 20, 1977, at 9:30 A.M.

BEFORE: Jane S. Atkins, Hearing Examiner

APPEARANCES:

For the Applicant:

Henry H. Sink, Parker, Sink & Powers, Attorneys at Law, P. O. Box 1471, Raleigh, North Carolina 27602

For the Protestants:

William E. Anderson, Weaver, Noland & Anderson, Attorneys at Law, P. O. Box 2226, Raleigh, North Carolina 27602
For: Medfield-Kingsbrook Homeowners Association, Hidden Valley West, Cambridge Ad Hoc Committee on Water Rates

For the Commission Staff:

Paul L. Lassiter, Associate Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Ruffin Building, Raleigh, North Carolina 27602

ATKINS, HEARING EXAMINER: By application filed with the North Carolina Utilities Commission in the above-captioned matter on December 7, 1976, the Applicant, Heater Utilities, Inc. (hereinafter at times referred to as the Applicant or the Company), seeks authority to increase its rates and charges for water utility service in its 23 service areas in North Carolina.

By Order issued on December 20, 1976, the matter was declared to be a general rate case; the proposed rates were suspended pursuant to G.S. 62-134; the application was set for hearing; the Applicant was ordered to give public notice; and the Commission Staff was directed to examine the books and records of the Applicant.

On January 6, 1977, the Applicant filed with the Commission a Motion for approval of publication of the

requisite Notice to Public in the Raleigh News and Observer, the Durham Herald, and the Burlington Daily Times - News. In its Motion, the Applicant requested that its publication of the Notice to Public in the aforementioned newspapers be approved by the Commission as being adequate and fair to give notice to all members of the general public and to customers of the Applicant in all its affected service areas.

By Order issued on January 12, 1977, the Commission approved the Applicant's publication. In response to the Commission's Order, public notice was published by the Applicant in the News and Observer, the Durham Herald, and the Burlington Daily Times - News on January 8 and 15, 1977. Additionally, a copy of the Notice of Public was mailed and/or hand delivered to all the customers of the Applicant in the affected service areas.

On March 21, 1977, Petitions for Intervention were filed by the Medfield-Kingsbrook Homeowners Association, Hidden Valley West, and the Cambridge Ad Hoc Committee on Water Rates through Attorney William E. Anderson and by Clinton Lee Brown, Jr., for himself. By Orders issued on March 22, 1977, the Commission allowed the interventions.

On March 24, 1977, the Commission Staff filed a Motion for an Extension of Time to File Staff Testimony from March 30, 1977, to April 8, 1977. By Order issued on March 28, 1977, the Commission granted the Staff's Motion for the extension.

At the call of the matter for hearing, the Applicant, the Protestants, and a large number of public witnesses were present. R. B. Heater, President of Heater Utilities, Inc., Raymond H. Johnson, a Certified Public Accountant, and W. J. Timberlake, a Water Utility Owner, testified for the Applicant. Clinton Lee Brown, Jr., testified for himself concerning the problems he has experienced as a customer of Heater Utilities in the Camelot Subdivision. In addition, a number of other customers of Heater Utilities were present at the hearing and testified concerning water quality problems that they have been experiencing. Harold V. Aiken, water engineer, testified for the Commission Staff.

At the close of the hearing, the Hearing Examiner gave the parties the option of filing proposed Findings of Fact. In accordance with this option, the Applicant and Protestants each filed with the Commission on May 11, 1977, proposed Findings of Fact.

On May 11, 1977, the Applicant filed a Motion seeking to show to the Commission that certain additional costs and expenses have been incurred or contracted to be incurred by the Applicant in the operations of Heater Utilities, Inc. On May 13, 1977, the Protestants filed a response to the Applicant's Motion. The Hearing Examiner's disposition of the Applicant's Motion will be treated along with the other issues in this Order.

Based on the prefiled testimony and exhibits, the matters and things testified to at the hearing, and the entire record in the cause, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. That Heater Utilities, Inc., is a South Carolina corporation domesticated in North Carolina and it holds a franchise to furnish water utility service in 23 service areas in North Carolina.

2. That the total increases in rates and charges under Heater Utilities' application would have produced approximately $92,997 in additional annual gross revenues over actual test-period revenues.

3. That the Applicant's present rates were set by Order issued December 12, 1974, in Docket No. W-274, Sub 14.

4. That the quality of service provided by Heater Utilities is basically adequate. Certain deficiencies exist, however, in Hidden Valley, Camelot, Ossippee, Roundtree, and Medfield Estates.

5. That the original cost of Heater Utilities' utility plant in service used and useful in the provision of service in North Carolina is $196,766. The accumulated depreciation associated with this utility plant in service is $29,633. Heater Utilities' original cost of net utility plant in service is $167,133.

6. That the average water consumption per month per customer is approximately 6,650 gallons.

7. That 5% of Heater Utilities' billings to its metered customers will be for the minimum charge due to inoperative meters at existing customer connections and nonfunctioning or unread meters at new connections where homes are still under construction.

8. That the approximate operating revenues for Heater Utilities for the test period are $142,984 under present rates and under Company proposed rates would be $219,380.

9. That the level of Heater Utilities' operating revenue deductions after accounting adjustments including taxes and interest on customer deposits is $125,046 ($135,150 after application of annualization factor) which includes the amount of $10,647 for actual investment currently consumed through reasonable actual depreciation.

10. That the reasonable allowance for working capital is $1,455.

11. That the ratio of operating expenses to operating revenues will be the basis for fixing the rates of Heater Utilities in this proceeding.

12. That, based on the Hearing Examiner's foregoing findings, Heater Utilities should be allowed to increase its rates so as to produce $25,940 in additional annual gross revenues in order for the Company to have an opportunity, through efficient management, to achieve the operating ratio of 91.85% which the Hearing Examiner has found to be reasonable and fair.

CONCLUSIONS

The Hearing Examiner will now analyze and discuss the relevant evidence advanced by all parties concerning the Findings of Fact and thereafter make her conclusions based on this evidence and set forth the reasons and basis therefor.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-3

These findings are based on the official records of the Commission and the verified application of Heater Utilities, Inc.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Of the 23 North Carolina subdivisions being provided water utility service by Heater Utilities, Inc., complaints on quality of service were received on only five subdivisions.

The Rev. George B. S. Hale and Frank Whitten appeared at the hearing as public witnesses and offered testimony concerning the quality of service in Hidden Valley Subdivision. Both witnesses gave accounts of muddy water being the major problem with the system. Mr. Heater testified that the muddy water was being caused by the sloughing of iron deposits from the interior of the water system's pipes. This sloughing action is accelerated by changes in flow patterns within the system. Mr. Heater did not elaborate as to whether a viable solution to this problem exists.

Clinton L. Brown appeared as a public witness and offered into evidence a petition from residents of Camelot Subdivision. He also stated that the water leaves a green color residue on bathroom fixtures. Mr. Heater again testified that he was aware of these problems but lack of funds had prevented improvements to correct these deficiencies.

Frank Whitten, President of Medfield-Kingsbrook Homeowners Association, offered testimony concerning complaints he had received from residents of Medfield Estates. Although Mr. Whitten personally had no problems with the quality of service, he did relate several complaints of low pressure.

Bruce Foster presented a petition from residents of Ossippee Subdivision and offered testimony on the complaints raised in the petition. The problems in quality of service in Ossippee involve mainly water quality, low pressure, and broken water lines.

The Hearing Examiner concludes that quality of service provided by Heater Utilities, for the most part, is adequate. There exist, however, deficiencies which require further examination, and Heater Utilities should provide the Commission with a more detailed explanation of the aforementioned problems and a feasibility study proposing corrective measures and their associated costs. Another point discussed by several witnesses concerned the cutting off of water for the purpose of making repairs or improvements without notifying the affected customers in advance. The Hearing Examiner realizes that in all instances it may not be possible to inform customers prior to temporary interruptions in service but that when the utility has an opportunity to inform customers of service interruption, it should do so.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Applicant and the Staff presented different amounts for utility plant in service and its associated accumulated depreciation as follows:

Item	Applicant	Staff
Original cost of utility plant in service	$207,410	$196,766
Less: Accumulated depreciation	31,568	28,007
Net original cost of utility plant in service	$175,842	$168,759

With respect to the original cost of North Carolina utility plant in service, the Company and the Staff disagree in the amount of $10,644. Staff witness Dudley testified that the difference was due to his allocation of certain general plant assets located physically in North Carolina whose use benefits both North and South Carolina customers of Heater Utilities. The three classes of assets rendering service to both states' operations are leasehold improvements, office furniture and equipment, and certain transportation equipment. Since customer billings and records, administrative supervision, and other tasks relating to operations in South Carolina are performed in the Company's general offices in Cary, North Carolina, the allocation to South Carolina of a portion of these costs which were classified entirely as North Carolina plant by the Applicant is proper. On cross-examination, Company witness Heater agreed that the utilization of these assets benefited both North and South Carolina ratepayers. Having established the propriety of allocation of a portion of the cost of these assets to South Carolina, the Hearing Examiner will now discuss the basis of this allocation. Staff

witness Dudley testified that he allocated to North Carolina operations the cost of these jointly used plant assets on the basis of customer ratios. He testified further that the customer ratio basis was reasonable because all Company customers benefit from the use of those assets and the most appropriate measure of that benefit was reflected in the customer ratio. He further pointed out that the Applicant uses the customer ratio to allocate jointly incurred expenses to the various operating groups: North Carolina water, South Carolina water, and South Carolina sewer. During cross-examination, Staff witness Dudley also pointed out that the salaries of the employees who utilize the leasehold improvements, general office equipment, and transportation equipment are allocated to the operating groups based on customer ratios. Company witness Heater and Heater Utilities' Accounting witness Johnson both testified that the allocation based on customer ratios resulted in a larger amount of general plant allocated to South Carolina than what they believed was proper. Each Company witness stated that he had conducted an informal inquiry of Heater Utilities' employees as to the manner in which they devoted their time during each workday. Mr. Heater stated that his North Carolina employees devoted 70% of their work hours to North Carolina operations and Company witness Johnson stated that Heater Utilities' general office employees devoted 60% of their work hours to North Carolina operations. Neither witness introduced into the record any summary or tabulation of the results of his inquiry, the time period covered, or the employees who were included. Upon consideration of the evidence presented, the Hearing Examiner concludes that the allocation of the cost of general plant assets to South Carolina operations made by Staff witness Dudley is appropriate. The Hearing Examiner believes that it would be inconsistent to allocate the cost of assets utilized by general office employees on a basis different from the allocation of their salaries which were based on customer ratios. Furthermore, sufficient evidence was not presented by the Applicant that the cost of these assets should be allocated on any other basis. The original cost of utility plant in service for use in this proceeding is $196,766.

The Company and Staff witnesses disagree on the amount of accumulated depreciation to be deducted in determining the North Carolina net utility plant in service. The Applicant presented $31,568 as the proper accumulated depreciation while the Staff presented $28,007. Neither of these amounts is correct; therefore, the Hearing Examiner will determine the proper balance of accumulated depreciation. Staff witness Dudley's adjustment to accumulated depreciation was composed of three elements. The first adjustment of $2,663 was made to bring the accumulated depreciation balance per the application into agreement with the balance per books. The second adjustment, ($1,765), was made following Staff witness Dudley's allocation of general plant to South Carolina. The Hearing Examiner concludes that both of these adjustments are proper. The third Staff adjustment of $4,459 removed from accumulated depreciation the excess of

the Applicant's recorded test-period depreciation over the calculated end-of-period amount as presented on Dudley Exhibit 1, Schedule 3-2. In calculating the end-of-period depreciation expense, Staff witness Dudley used the depreciation rates as presented in Heater Utilities' application with the exception of the 10% rate on electric pumping equipment as recommended by the Staff Engineering Division. The Hearing Examiner has elsewhere evaluated the depreciation rates and reached her conclusions regarding the proper rates for use in this proceeding and does not deem it necessary to repeat those findings here; however, the Hearing Examiner determined that the 20% depreciation rate on electric pumping equipment is appropriate. Since Staff witness Dudley's adjustment utilized the 10% rate, his depreciation expense and accumulated depreciation adjustments are in error. The Hearing Examiner has computed end-of-period depreciation expense of $10,647 or $2,833 less than the Applicant's recorded test-period depreciation expense. Staff witness Dudley's adjustment was $4,459; therefore, the correct amount of the end-of-period adjustment is ($2,833). The proper net adjustment to accumulated depreciation is ($1,935), ($2,663 - $1,765 - $2,833). The Hearing Examiner concludes that the proper deduction for accumulated depreciation is $29,633. The Hearing Examiner further concludes the original cost of Heater Utilities' net utility plant in service for use in this proceeding is $167,133.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Mr. Heater and Mr. Aiken testified as to the average water consumption per month per customer.

Mr. Heater testified that the Applicant's consumption figures represented the total yearly consumption of all metered customers divided by the number of metered billings. The figure arrived at in this manner was 5,811 gallons of water consumed per month per metered customer.

Mr. Aiken testified that in his analysis he took a random sample of the metered billings, excluding customers with excessive "zero" consumption readings. This sample gave a consumption figure of 6,656 gallons per month per billing. A second sample was then taken to check the accuracy of the first sample. For this second sample, the total yearly consumption of the metered customers for five subdivisions, again excluding customers with excessive "zero" consumption readings, was divided by the number of billings for those five subdivisions. This second analysis yielded an average monthly consumption figure of 6,646 gallons. Mr. Aiken also illustrated that if his analysis had included the customers with excessive "zero" consumption readings, the average monthly consumption figure would be approximately the same as found by the Applicant. Mr. Aiken explained that these excessive "zero" consumption readings were caused for the most part by inoperative meters.

Based on the evidence of record, the Applicant failed to account for excessive numbers of inoperative meters which caused its average monthly consumption figures to be lower than actual. Therefore, a fair average consumption figure for the test year is 6,650 gallons per month per customer.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Mr. Aiken testified that in his survey of the utilities' billing records, approximately 12% of the metered customers paid minimum charges because either no water was used by the customer or the meter was not registering consumption. Mr. Aiken, in prefiled testimony, assumed that 12% was totally unreasonable for inoperable meters and his revenue figures failed to account for these minimum charges.

Mr. Heater testified that in his survey of the utility billing records, approximately 8% of the metered customers paid minimum charges due to inoperable meters and that this 8% figure was a reasonable allowance. Mr. Heater further testified that a number of Heater Utilities' water meters are old and that it is, therefore, not unreasonable to assume that certain of these meters will break down from time to time. He further stated that it is often the practice of Heater Utilities to furnish water service to builders for the minimum charge at the construction site of new homes regardless of whether a meter is installed. He stated that his experience has shown water usage at such sites to be insufficient to justify meter reading. Mr. Heater testified that these construction connections may have accounted for part of the variation between the Staff's calculations for inoperable meters and Mr. Heater's calculations.

The Hearing Examiner is of the opinion that the 8% figure for inoperable meters as testified to by Mr. Heater is unrepresentatively high and was brought about by unusual and nonrecurring problems experienced by Heater Utilities in obtaining 5/8-inch replacement meters. On the other hand, the Staff's calculation which disallowed an allowance for any inoperative meters is unrepresentatively low. First, it is in the nature of mechanical devices, including water meters, to break down occasionally even under the most ideal circumstances. Secondly, Heater's practice of not reading meters at construction sites appears to be reasonable. Based on a weighing of the above recited evidence, the Hearing Examiner concludes that of Heater Utilities' metered customers, it is reasonable to assume that 5% of these billings will be minimum charges due to both inoperable meters and unusual water consumption associated with homes under construction. It is assumed that, during construction of new homes, builders usually desire to have water available at the homesite even though minimal water usage may be registered until the house is sold. The Examiner also points out that the 5% figure is reasonable only as long as the subdivisions served by the utility are expanding with the construction of new homes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Applicant presented $12,325 of actual test-period revenues. In determining this amount, the Applicant deducted $2,979 of "Debits and Credits to Surplus." Staff witness Dudley testified that the balance in this account arose from adjustments and corrections relating to prior accounting periods. He further testified that these adjustments were nonrecurring and, therefore, that the debit balance in this account should be removed to prevent misstating test-period operating revenues. On cross-examination, Staff witness Dudley pointed out that the time period during which the write-off occurred was irrelevant and that the factor which determined his decision to remove the balance from test-period results was the extraordinary and nonrecurring nature of the entries. The Hearing Examiner, upon consideration of the evidence presented, concludes that the events comprising the $2,979 balance were nontypical, nonrecurring, or, at least, infrequently recurring, which would distort the test year's reported income if reported other than as extraordinary items. The Hearing Examiner concludes that Staff witness Dudley's adjustment to remove the $2,979 of "Debits and Credits to Surplus" from test-period operating results is proper and that the actual test-period operating results are proper and that the actual test-period operating revenues for Heater Utilities are $124,304.

Both the Applicant and the Staff presented different amounts for end-of-period water revenues under present rates and under Company proposed rates as follows:

	Present Rates	Company Proposed Rates
Staff	$147,860	$227,052
Applicant	139,747	214,323
Difference	$ 8,113	$ 12,729

The end-of-period water revenues were determined by Engineering Staff witness Aiken and used by Accounting Staff witness Dudley in his testimony and exhibit. The major difference between the Company and the Staff is the amount of average water consumption per customer per month. The Company presented the amount of 5,811 gallons while the Engineering Staff presented the amount of 6,650 gallons. Engineering Staff witness Aiken testified that the Company had computed its average consumption amount by including all metered customers, including those with broken or inoperative meters in its computation and thereby understated average water consumption. Witness Aiken further testified that he determined average water consumption based on a 10% sample of customer billing records from all Heater Utilities' metered water systems. Average consumption computed in this manner was 6,656 gallons. In addition, witness Aiken analyzed a 100% sample

of the customer billing records from the following five of Heater Utilities' water systems: Medfield, Martinsdale, Robinswood, Wildcat Creek and Roundtree. This analysis revealed an average consumption of 6,646 gallons for customers whose meters were operable. Staff witness Aiken, based on the previously produced results, concluded that the average water consumption was 6,650 gallons. End-of-period revenues as computed by the Staff Engineering Division amounted to $147,860.

The record reveals that the Staff did not reflect in its computations the fact that water customers in the Ravenwood Apartments were unmetered. To the extent that the Staff considered these customers to be metered customers, the end-of-period revenues as calculated by the Staff are in error. In addition, the Hearing Examiner has found in Finding of Fact No. 7 that it is reasonable to assume that 5% of the metered customer billings will be minimum charges due to inoperative meters and/or construction of new homes. Based on the above evidence, the Hearing Examiner concludes that the proper level of end-of-period water revenues for use in this proceeding is $142,984.

Computation of the end of year revenue is as follows:

1. a. Present rate, average monthly bill - $9.42 (assuming 6,650 gallons per month average consumption)

   b. Flat rate - $5.00

2. Allowance for flat rate customers

   a. Ravenwood Apartments - 328 test year billings

   b. Ossippee - 1,137 test year billings

   c. New home construction and inoperative meters - 737 test year billings (approximately 5% of metered customers)

3. Calculation of Revenues

   a. Total test year billings - 16,212

   b. Total flat rate allowance - 2,202 test year billings

   c. Total metered rate allowance - 14,010 test year billings

   d. Present rate test year revenues:

$5.00 x 2,202 billings	=	$ 11,010
$9.42 X 14,010 billings	=	$131,974
		$142,984
		end of year revenues

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Company and the Staff presented testimony showing the level of operating revenue deductions they believed should be used by the Commission for the purpose of fixing Heater Utilities' rates in this proceeding.

The following tabular summary shows the amounts claimed by the Company and the Staff:

Item	Company	Staff
Operating expenses	$ 31,623	$ 24,019
Plant operations and maintenance	52,821	52,821
General expense	45,471	46,208
Income taxes - State and Federal	68	-
Total operating revenue deductions	$129,983	$123,048

Neither amount as computed by the Company or the Staff is appropriate for use in setting rates in this proceeding; therefore, the Commission will discuss the differences between the Company and Staff amounts and recompute the proper level of operating revenue deductions.

The Company and the Staff disagree first on the amount of operating expenses. Their difference is due to two adjustments made by Staff witness Dudley. The first adjustment made by Staff witness Dudley removed from depreciation expense the excess of Company recorded test-period depreciation over the end-of-period amount as calculated on Dudley Exhibit 1, Schedule 3-2. Staff witness Dudley testified that he computed end-of-period depreciation expense on the adjusted balance of North Carolina utility plant in service of $196,766 and that he had used the depreciation rates included in Heater Utilities' application with the exception of a 10% rate on electric pumping equipment as contrasted to the 20% proposed by the Applicant. Staff witness Dudley testified that he used the 10% rate based on the recommendation of Engineering Staff witness Aiken. On cross-examination, Staff witness Aiken testified that he relied on a publication entitled "Depreciation Practices for Small Utilities - Water" published by the National Association of Regulatory Utility Commissioners (NARUC) which listed the suggested average service life for pumping equipment at 20 to 30 years. The Staff's position was then to assume that these suggested service lives represented large turbine pumps rather than the small submersible pumps as used by Heater Utilities. Mr. Aiken then testified that to compensate a 10-year service life would be appropriate. In response, Mr. Heater testified that based on his experience a more reasonable estimated life of submersible pumps is five years or at a 20% annual depreciation rate. In addition, the Company presented the testimony of W. J. Timberlake, owner of Hasty Pump Company and of Timberlake Utilities, who testified that

in his experience the estimated useful life of a small pump is five years. The Hearing Examiner recognizes the source of the Staff's estimated useful life recommendation but places greater weight on Heater Utilities' actual experience with this type of equipment. The Commission concludes that a 20% depreciation rate should be applied to electric pumping equipment. The proper end-of-period depreciation expense is therefore $10,647 as contrasted to the $9,021 amount determined by Staff witness Dudley.

Staff witness Dudley testified that he removed $1,616 of miscellaneous income deductions from test-period operating expenses which consisted of country club expenses, contributions, and certain life insurance premiums on the president of Heater Utilities. He also testified that he removed the country club dues on the basis that they were not necessary expenditures for the operation of Heater Utilities and removed contributions on the basis that ratepayers should not be required to pay in rates covering a cost of service which, in effect, includes involuntary donations made by them. The Hearing Examiner concludes that the removal of country club expenses and contributions is proper. According to Staff witness Dudley, life insurance premiums expense was removed on the basis that the Company would receive the benefit of the insurance proceeds, but the proceeds would not be considered as revenue for rate-making purposes. He further testified that the policy represented by the premiums expense charged through this account had been discontinued and, further, that the Uniform System of Accounts states that life insurance expense applicable to company officers is considered a miscellaneous income deduction which should not be included in allowable operating expenses for rate-making purposes. On cross-examination, when asked about the maintaining of life insurance as a requirement of the Carolina Bank loan agreement, Staff witness Dudley testified that the Carolina Bank's "promissory note secured by mortgage and collateral" did not mention the life insurance provision. The Hearing Examiner is aware of a separate Carolina Bank "loan agreement," which mentions in paragraph 9 the "maintenance of certain life insurance" which appears to provide support for the Applicant's contention that the acquisition of life insurance coverage after the test period was required by the loan agreement. On cross-examination, however, Company witness Heater stated that he would probably continue to maintain this coverage after the loan had been paid off. In addition, the Company provided no specific data with respect to the cost of the life insurance policy or that the proceeds of the policy had been assigned to the Carolina Bank. Therefore, the record is not clear regarding the necessity of this policy or its associated premiums expense. The Hearing Examiner in making her decision must look beyond the strict interpretation of the Uniform System of Accounts regarding life insurance premiums expense. Upon consideration of the evidence, the Hearing Examiner concludes that the life insurance premiums expense incurred during the test period should be allowed as a proper

operating expense at 27% (North Carolina customer ratio) of the total Company amount or $718. The Hearing Examiner also finds that 27% of the American Water Works Association dues, or $27, should be included in test-period operating expenses in accordance with Staff witness Dudley's adjustment. The Commission concludes that the proper level of miscellaneous income deductions for use in this proceeding is $745.

The Staff made a downward adjustment to taxes other than income in the amount of $1,142. Staff witness Dudley testified that he calculated directly the payroll, property, gross receipts and sales taxes. He testified that the payroll tax information was obtained from the 1976 W-3 payroll reports and that 27% of the payroll taxes of employees providing services benefiting ratepayers of both states should be allocated to North Carolina operations. There was no cross-examination relating to these payroll taxes, gross receipts tax and sales tax expense. On cross-examination, Staff witness Dudley testified that in computing the test-period property tax expense he totaled the North Carolina tax bills and excluded from that total late payment penalties and interest. He testified that the penalties and interest were not allowable expenses and that the ratepayers should not be penalized by including in the cost of service an expense that should have not been incurred especially since the Company's cash balances appeared adequate to have paid these taxes in a timely manner. The Hearing Examiner concurs that the late payment penalties and interest should not be included in test-period property tax expense and would further point out that rates are being set for the future and set high enough to include the property tax expense incurred. The Hearing Examiner has concluded elsewhere in Evidence and Conclusions for Finding of Fact No. 8, that the end-of-period revenues used by the Staff in this proceeding are incorrect and, consequently, that Staff witness Dudley's calculation of gross receipts tax is also incorrect. The Hearing Examiner, therefore, concludes that the downward adjustment to taxes other than income should be $1,321 and that the proper level of taxes other than income for use in this proceeding is $15,179.

The Applicant did not include any interest on customer deposits in test-period operating expenses. The Staff included as an adjustment $287 of deannualized interest expense on end-of-period customer deposits. This adjustment is proper since the end-of-period amount of customer deposits was deducted from the allowance for working capital, and the inclusion of the interest expense applicable to these deposits in test-period operating expenses allows Heater Utilities to recover only the costs of these deposits and not to earn a return on these customer supplied funds.

The Hearing Examiner concludes that the proper level of operating expenses for the test period is $26,062 (deannualized), composed of depreciation expense, $9,851;

taxes other than income, $15,179; miscellaneous income deductions, $745; and interest on customer deposits, $287.

The Company and Staff are in agreement concerning the proper level of deannualized plant operations and maintenance expense of $52,821; therefore, the Hearing Examiner concludes that this amount is proper.

The Applicant presented $45,471 of test-period general expenses and the Staff presented $46,208. The difference between the two amounts results from four adjustments made by Staff witness Dudley. The Hearing Examiner will now discuss these adjustments.

The first adjustment made by Staff witness Dudley increased uncollectible accounts expense by 1% of the $12,748 increase in water revenues to bring revenues to an end-of-period level. Although the uncollectibles experienced will vary from year to year, Staff witness Dudley testified that 1% of water revenues approximates the uncollectibles experienced during the past two years. It is therefore appropriate to match the increased water revenues with the appropriately increased uncollectibles. The Hearing Examiner concludes that Staff witness Dudley's adjustment of $127 is, however, not proper because the correct deannualized end-of-period revenue increase is $8,237 rather than the $12,748 amount used by Staff witness Dudley. Therefore, the Hearing Examiner concludes that the proper adjustment is 1% of $8,237 or $82.

The second adjustment was made by Staff witness Dudley to properly reflect in test-period general expense the employee benefits applicable to North Carolina operations. Staff witness Dudley testified that the Applicant had allocated employee benefits expense to North Carolina operations on the basis of the number of employees located in North Carolina. This allocation, however, ignores the fact that several of Heater Utilities' North Carolina employees render services that benefit both North Carolina and South Carolina operations. Since employees' payroll tax expense was adjusted in recognition of this fact, it would be consistent to adjust employee benefits expense in this manner. The Hearing Examiner therefore concludes that Staff witness Dudley's adjustment reducing North Carolina employee benefits expense by $473 is proper.

The next Staff adjustment increased rent expense by $2,339 for the increased computer lease expense applicable to the newly installed computer. The higher lease expense will be incurred by Heater Utilities and the Hearing Examiner concludes that Staff witness Dudley's adjustment increasing test-period lease expense is proper.

The final adjustment made by Staff witness Dudley reduced rate increase expense by $1,256 of the $1,884 amount included by the Applicant in test-period general expenses. Staff witness Dudley testified that the $1,884 of rate case

expense was incurred in Heater Utilities' last general rate case (Docket No. W-274, Sub 114) and that Commission policy, based on other recent rate case decisions, was amortization of these costs over a 3-year period. Staff witness Dudley further testified that although this policy was not a formally written policy the Commission's intent as perceived by similar treatment in other recent rate cases was amortization over this period of time. The Hearing Examiner concludes that although Heater Utilities was not specifically directed to write off these costs over a 3-year period this treatment is appropriate. The Hearing Examiner further points out that deferral and amortization is the appropriate accounting treatment for an expenditure whose benefits are to be received in future accounting periods. The Hearing Examiner therefore concludes that Staff witness Dudley's adjustment to include 1/3 of the prior rate case cost as an expense during the test period is proper. The Hearing Examiner concludes that the proper level of test-period general expenses before application of the annualization adjustment factor is $46,163.

The Applicant included $68 of State income taxes in test-period expenses. Staff witness Dudley calculated State and Federal income tax expense on his Schedule 3.7. His calculation determined that there was no State or Federal income tax expense based on Staff adjusted revenues and expenses for the test period. Therefore, Staff witness Dudley removed the $68 of income tax expense included by the Applicant. The Hearing Examiner will now repeat this calculation using the operating revenues and operating revenue deductions heretofore found proper:

Operating Revenues	$132,541
Operating Revenue Deductions:	
Operating expenses	26,062
Operations and maintenance	52,821
General expenses	46,163
Operating income before income taxes	7,495
Deannualized interest expense	14,082
North Carolina State taxable income	$ (6,587)

Since there is a negative taxable income, there is no State or Federal income tax expense for the test period under present rates.

The Hearing Examiner therefore concludes that the operating revenue deductions (before application of the annualization adjustment factor) found proper for use in this proceeding in setting Heater Utilities' rates are as follows:

Operating expenses	$ 26,062
Operations and maintenance	52,821
General expense	46,163
Income taxes-State & Federal	-
Total operating revenue deductions	$125,046

The total operating revenue deductions of $125,046 must be brought to an end-of-period level to obtain a proper matching with end-of-period revenues and, therefore, to obtain an accurate determination of net operating income for return. The test-period operating revenue deductions are multiplied by an annualization adjustment factor based test-period customer growth to bring them to an end-of-period level. The annualization factor does not encompass general price level increases or the projected effects of inflation since the precise effects of inflation on Heater Utilities' operations cannot be determined. However, the Hearing Examiner will consider the effects of inflation leading to attrition of earnings in setting Heater Utilities' rates in this proceeding. The Applicant filed a Motion on May 11, 1977, seeking consideration by the Commission for inclusion in the setting of rates approximately $27,000 of purported additional expenses. The Hearing Examiner finds that these facts were not introduced into the record, were not verified or shown to be applicable to the test period or shown to have been incurred prior to the close of the hearing on April 21, 1977, in accordance with General Statutes 62-133(c). Therefore, the Hearing Examiner denies the Motion of the Applicant.

The Hearing Examiner has reviewed and found proper Staff witness Dudley's calculation of the annualization adjustment factor of 8.08%. The end-of-period operating revenue deductions are $135,150 ($125,046 x 1.0808).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The Applicant and the Staff presented different amounts for the working capital allowance. The Applicant claimed $43,249 of working capital while the Staff claimed $1,388. Neither of these amounts is correct; therefore, the Hearing Examiner will compute the proper allowance for working capital.

The Applicant presented an allowance for working capital consisting of its end of test year balance in the cash account ($28,621) plus its end of test year balance ($14,628) of North Carolina and South Carolina materials and supplies and meter inventories. Both of these amounts are inappropriate for use in determining the working capital allowance. Staff witness Dudley testified that the cash component of the working capital allowance, computed in accordance with the formula method, was equal to 1/8 of adjusted test-period expenses less depreciation and not equal to the total Company cash per books balance at the end of the test year. The cash component as computed by the

Staff was $15,496. The Hearing Examiner has determined in Evidence and Conclusions for Finding of Fact No. 9 that the Staff has incorrectly determined the balances for depreciation expense, miscellaneous income deductions, and uncollectibles and gross receipts tax associated with the end-of-period water revenues found proper by the Hearing Examiner in Evidence and Conclusions for Finding of Fact No. 9; and to the extent that these expenses were misstated, the Staff has also incorrectly computed the cash component of the working capital allowance. The proper amount of the cash component is $15,563, computed as 1/8 of the annualized expenses less depreciation of ($125,046 - $9,851) x 1.0808 x 1/8 = $15,563. The Company included the amount of $14,628 in its working capital which represented the end of test year balances of North and South Carolina materials and supplies and meter inventories. Staff witness Dudley testified that North Carolina ratepayers should not have to pay a return on materials and supplies and meters applicable to South Carolina use or on a level of materials and supplies and meters which is not representative of that amount normally maintained. The Hearing Examiner concurs with this statement and further concludes that $4,764 of North Carolina average materials and supplies and meter inventory as calculated on Dudley Exhibit 1, Schedule 2-3, is a proper component of the allowance for working capital. Heater Utilities did not include any other elements in the computation of the working capital allowance. Staff witness Dudley completed his allowance for working capital by including average prepayments of $72, average tax accruals of ($12,059) and end-of-period customer deposits of ($6,885). The Hearing Examiner finds that these items are proper elements of the allowance for working capital. The Hearing Examiner concludes, in accordance with other recent rate case decisions, that the formula method for determining the working capital allowance is appropriate for use in this case. The amounts comprising the allowance are as follows: cash, $15,563; materials and supplies and meters, $4,764; average prepayments, $72; average tax accruals, ($12,059); and end-of-period customer deposits, ($6,885). The Hearing Examiner concludes that the reasonable allowance for working capital for use in this proceeding is $1,455.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Applicant did not request that its rates be fixed under G.S. 62-133(b). Therefore, the Hearing Examiner must determine whether rates shall be fixed on the rate base method or the operating ratio method. Upon consideration of the evidence presented in this proceeding, the Hearing Examiner concludes that the use of the operating ratio method will result in rates that are just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The following schedule summarizes the gross revenues and operating ratio which the Company should have a reasonable opportunity to achieve, based on the increase approved

herein. This schedule incorporates the findings, adjustments and conclusions heretofore and herein made by the Hearing Examiner.

SCHEDULE I
HEATER UTILITIES, INC.
DOCKET NO. W-274, SUB 20
STATEMENT OF INCOME, ORIGINAL
COST NET INVESTMENT AND OPERATING RATIOS
FOR TWELVE MONTHS ENDED JULY 31, 1976

	Present Rates After Staff Adjustments	Adjusted to End-of-Period Level	Increase Approved	After Approved Increase
Operating Revenues				
Water revenues	$132,295	$142,984	$25,940	$168,924
Miscellaneous service	140	151		151
Recoveries of bad debts	106	115		115
Total operating revenues	132,541	143,250	25,940	169,190
Operating Revenue Deductions				
Depreciation	9,851	10,647		10,647
Taxes other than income	15,179	16,406	1,027	17,432
Miscellaneous income deductions	745	805		805
Interest on customer deposits	287	310		310
Plant operations and maintenance	52,821	57,089		57,089
General expense	46,163	49,893	259	50,152
State & Federal income tax	-		3,752	3,752
Total operating revenue deductions	125,046	135,150	5,038	140,188
Net operating income for return	$ 7,495	$ 8,100	$20,902	$ 29,002

Investment in Utility Plant			
Utility plant in service	$196,766		$196,766
Less: Accumulated depreciation	(29,633)		(29,633)
Net investment in utility plant in service	167,133		167,133
Allowance for Working Capital			
Cash	$ 15,563		$ 15,563
Materials & supplies	4,764		4,764
Average prepayments	72		72
Less: Average tax accruals	(12,059)		(12,059)
Customer deposits	(6,885)		(6,885)
Total allowance for working capital	1,455		1,455
Net investment in utility plant in service plus working capital	$168,588		$168,588
Total expenses (Including interest of $15,220)	$150,370	$ 5,038	$155,408
Total revenues	$143,250	$25,940	$169,190
Operating ratio	104.97%		91.85%

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates attached hereto as Appendix A be, and is hereby, approved and that this Schedule of Rates be, and is hereby, deemed to be filed with the Commission pursuant to G.S. 62-138.

2. That the Schedule of Rates attached hereto be, and is hereby, authorized to become effective for water service furnished on and after July 1, 1977.

3. That within 90 days the Applicant provide the Commission with a detailed explanation of the problems with quality of service and feasible solutions for these deficiencies as described in this Order for Medfield Estates, Camelot, Hidden Valley and Roundtree Subdivisions.

4. That whenever possible the Applicant shall inform the customers in advance when their service is to be interrupted.

ISSUED BY ORDER OF THE COMMISSION.
This 30th day of June, 1977.

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

APPENDIX A
HEATER UTILITIES, INC.
ALL NORTH CAROLINA SERVICE AREAS

WATER RATE SCHEDULE

Flat Rates and unmetered apartment rate - Minimum charge under metered rates ($5.60 per month).

Metered Rates - 3/4" x 5/8" meters

First 2,000 gallons (minimum charge and flat rate) or first 267.4 cubic feet	$ 5.60
Each 1,000 gallons over first 2,000 gallons (metered systems only) or each 133.7 cubic feet over 267.4 cubic feet	$ 1.20

Metered Rates - 1" meters

Minimum charge, including first 4,000 gallons, per month	$11.20
All over 4,000 gallons per month, per 1,000 gallons	$ 1.20

Connection Charges - 3/4" x 5/8" meters

For taps inside platted subdivision	$135.00
For taps outside platted subdivision	$350.00

Connection Charges - Meters exceeding 3/4" x 5/8"

For all taps - 120% of actual cost

Reconnection Charges

If water service cut off by utility for good cause [NCUC Rule R7-20(f)]	$4.00
If water service discontinued at customer's request [NCUC Rule R7-20(g)]	$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 - Are one percent (1%) per month of unpaid balance still past due twenty-five (25) days after billing date.

DOCKET NO. W-274, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Heater Utilities, Inc., P. O. Box 549, Cary, North Carolina, for Approval of Increased Rates for Water Utility Service in its Service Area in North Carolina	) ORDER OVERRULING) EXCEPTIONS AND) AFFIRMING RECOM-) MENDED ORDER)

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 8, 1977 (Oral Arguments on Exceptions) and on April 20 and 21, 1977 (Initial Hearing)

BEFORE: Chairman Robert K. Koger, Presiding, and Commissioners Ben E. Roney, Leigh H. Hammond, S. Lindsay Tate, Robert Fischbach and John W. Winters, with Tenney I. Deane having read the record and participating in the decision

APPEARANCES:

For the Applicant:

Henry H. Sink, Parker, Sink & Powers, Attorneys at Law, P. O. Box 1471, Raleigh, North Carolina 27602

For the Protestants:

William E. Anderson, Weaver, Noland & Anderson, Attorneys at Law, P. O. Box 2226, Raleigh, North Carolina 27602
For: Medfield-Kingsbrook Homeowners Association, Hidden Valley West, and Cambridge Ad Hoc Committee on Water Rates*

*additional Protestants added by Order of Correction, October 19, 1977:

Coachman's Trail Homeowners Association
Roundtree Homeowners Association
Hidden Valley Committee on Water Rates
Martindale Committee on Water Rates

For the Public Staff:

Paul L. Lassiter, Associate Staff Attorney, North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On December 7, 1976, Heater Utilities, Inc. (the Company), filed for a general rate increase. Hearings were held in this matter on April 20 and 21, 1977, before Jane S. Atkins, Hearing Examiner. On June 30, 1977, Hearing Examiner Atkins issued a Recommended Order granting the Company a partial increase in rates.

On June 15, 1977, William Anderson, Attorney for Protestants, filed a motion for an extension of time to file exceptions to the Recommended Order. The Commission by order issued July 15, 1977, allowed an extension until July 25, 1977.

On July 15, 1977, Henry H. Sink, Attorney for the Applicant, filed exceptions to the Recommended Order. These exceptions were as follows: (1) That the Hearing Examiner accepted the testimony of the Commission Staff as to average water consumption which testimony the Applicant alleges was based on statistically inaccurate sampling techniques; (2) That the Hearing Examiner completely disregarded an Applicant's exhibit, based on actual records, showing that losses of revenue from defective or inoperable meters constituted a revenue loss of only 4.227% of total gross revenues; (3) That the Hearing Examiner used the average consumption as derived by the Commission Staff rather than the actual monthly average consumption as presented by the Applicant; (4) That the Hearing Examiner's determination of a 91.85% operating ratio is allegedly unfair and unreasonable. In addition to the exceptions, the Applicant gave notice of intent to implement the rates approved in the Recommended Order.

On July 25, 1977, William Anderson, Attorney for the Protestants filed exceptions to the Recommended Order. These exceptions were as follows: (1) That the Hearing Examiner incorrectly computed the original cost of Applicant utility plant in service by erroneously including idle and excess plant; (2) That the Hearing Examiner made an allowance for defective meters that was unsupported by the evidence; (3) That the Hearing Examiner erroneously treated the Ravenwood services as properly being unmetered; (4) That the Hearing Examiner erroneously included part of a payment of a life insurance premium to be included as an allowable expense; (5) That the Hearing Examiner erroneously allowed depreciation expense that was attributable to idle and excess plant; (6) That the Hearing Examiner schedule of revenue and expenses in Finding of Fact No. 12 is erroneous as it contains the errors outlined hereinabove; and (7) That the entry of the tariff provided by the order is, therefore, erroneous.

On July 26, 1977, the Public Staff, by and through Hugh A. Wells, Executive Director, and Jerry B. Pruitt, Chief Counsel of the Public Staff, filed Notice of Intervention. On July 27, 1977, the Commission issued an Order Recognizing Intervention of the Public Staff.

On August 2, 1977, the Commission issued an Order setting the exceptions of the Protestant for Oral Argument and staying the Recommended Order. On August 8, 1977, the Commission issued a supplemental order also setting the Applicant's exceptions for Oral Argument.

On August 12, 1977, the Protestants filed a motion with the Commission that the Applicant not be permitted a proposed temporary increase in water rates pending outcome of the Oral Argument on the exceptions. In the motion, Protestants stated that the Applicant had mailed out to its customers on August 3, 1977, a notice of a temporary rate increase. The Protestants opposed such temporary rates as being unauthorized and not being under bond.

On August 15, 1977, the Applicant filed with the Commission motion that it intended to put into effect the water rates set forth in the Recommended Order pursuant to G. S. 62-135 as six months had passed since the Applicant's original filing. Simultaneously, the Applicant filed with the Commission an undertaking. By order issued on August 17, 1977, the Commission approved the undertaking and allowed the rates to become effective pursuant to G. S. 62-135.

On September 8, 1977, the Applicant, the Protestants, and the Public Staff were present with Counsel for Oral Argument on the filed exceptions to the Recommended Order.

A complete history of this docket is set out by Hearing Examiner Atkins in her Recommended Order dated June 30, 1977, and is herewith adopted and incorporated by reference.

Upon a review of the entire record in this docket, the transcript of the hearings, the Recommended Order and exceptions thereto, and able arguments of counsel, the Commission makes the follcwing

FINDING OF FACT

The Commission adopts Findings of Fact numbers 1 through 12 of the Recommended Order as Findings of Fact herein and overrules exceptions of Applicant and intervenor to said Findings of Fact, and the Commission further reaches the following

CONCLUSIONS

1. That a full and complete hearing has been held in this matter, Docket No. W-274, Sub 20, wherein evidence was taken and witnesses were heard, and all parties have participated in a review of the Recommended Order at the Oral Argument, and that the Commission concludes that the Findings of Fact found by Hearing Examiner Atkins in her June 30, 1977, Recommended Order were supported by competent, material and substantial evidence and should be adopted and affirmed.

2. That each and every one of the four (4) exceptions filed by the Applicant and the seven (7) exceptions filed by the Protestant should be overruled and denied.

3. That the conclusion reached by Hearing Examiner Atkins that the fair average water consumption figure for the test year is 6,650 gallons per month per customer is reasonable and affirmed. The importance of this item in the determination of the level of revenues which should be generated from the present rates and the projected rates is of such magnitude that the method(s) used to arrive at the average usage should be the best and most reliable available to the Applicant and/or the Public Staff of the Commission. In this proceeding neither side presented data based on "100% Count" methodology or on "Statistical sampling" techniques which were completely reliable and from which a fair and reasonable decision could be reached without the addition of a substantial judgment factor. The Commission believes that within the ranks of the Public Staff there is the capability to make more effective use of "statistical sampling" methodologies than demonstrated in this proceeding and that such expertise will be used in future similar situations.

IT IS, THEREFORE ORDERED:

1. That all of the four numbered exceptions filed by the Applicant on July 18, 1977, are hereby overruled and denied.

2. That all of the seven (7) numbered exceptions filed by the Protestants on July 25, 1977, are hereby overruled and denied.

3. That the Recommended Order issued on June 30, 1977, by Hearing Examiner Jane S. Atkins is hereby adopted and affirmed as the Commission's Final Order.

4. That the schedule of rates attached hereto as Appendix A and as put into effect by Applicant on August 15, 1977, pursuant to undertaking, are hereby approved effective for service rendered on and after August 15, 1977.

5. That the undertaking filed by the Applicant on August 15, 1977, is hereby dismissed.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of October, 1977.

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

APPENDIX A
HEATER UTILITIES, INC.
ALL NORTH CAROLINA SERVICE AREAS

WATER RATE SCHEDULE

Flat Rates and unmetered apartment rate - Minimum charge under metered rates ($5.60 per month).

Metered Rates - 3/4" x 5/8" meters

First 2,000 gallons (minimum charge and flat rate) or first 267.4 cubic feet	$ 5.60
Each 1,000 gallons over first 2,000 gallons (metered systems only) or each 133.7 cubic feet over 267.4 cubic feet	$ 1.20

Metered Rates - 1" meters

Minimum charge, including first 4,000 gallons, per month	$11.20
All over 4,000 gallons per month, per 1,000 gallons	$ 1.20

Connection Charges - 3/4" x 5/8" meters

For taps inside platted subdivision	$135.00
For taps outside platted subdivision	$350.00

Connection Charges - Meters exceeding 3/4" x 5/8"

For all taps - 120% of actual cost

Reconnection Charges

If water service cut off by utility for good cause [NCUC Rule R7-20(f)]	$4.00
If water service discontinued at customer's request [NCUC Rule R7-20(g)]	$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 - Are one percent (1%) per month of unpaid balance still past due twenty-five (25) days after billing date.

DOCKET NO. W-617, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Mecklenburg Utilities, Inc., 1740 E. Independence Boulevard, Charlotte, North Carolina, for Authority to Increase Rates for Water and Sewer Utility Service in Mecklenburg and Union Counties, North Carolina	ORDER GRANTING PARTIAL INCREASE IN RATES

HEARD IN: The Board Room, 4th Floor, Education Center, 701 East 2nd Street, Charlotte, North Carolina, on Wednesday, July 13, 1977, and reconvened in

Room 617, The Dobbs Building, North Salisbury Street, Raleigh, North Carolina, on Friday, August 19, 1977

BEFORE: Commissioner S. Lindsay Tate, Presiding; and Commissioners Leigh H. Hammond and Robert Fischbach

APPEARANCES:

For the Applicant:

M. Marshall Happer III, Manning, Fulton & Skinner, Attorneys at Law, P. O. Box 1150, Raleigh, North Carolina 27602

For the Public Staff:

Paul L. Lassiter, Associate Staff Attorney, P. O. Box 991, Dobbs Building, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: By application filed with the North Carolina Utilities Commission in the above-captioned matter on April 6, 1977, the Applicant, Mecklenburg Utilities, Inc. (hereinafter at times referred to as the Applicant or the Company), seeks authority to increase its rates and charges for water utility service in its seven service areas in North Carolina and to increase its rates and charges for sewer utility service in its two sewer service areas.

By Order issued on May 4, 1977, the matter was declared to be a general rate case; the proposed rates were suspended pursuant to G.S. 62-134; the application was set for hearing; the Applicant was ordered to give public notice; and the Commission Staff was directed to examine the books and records of the Applicant.

On June 13, 1977, a Petition for Leave to Intervene was filed by the Bahia Bay Community Association signed by 59 customers. The petition recited that the Applicant had been

negligent in carrying out its responsibility to maintain the well sites and associated equipment. The petitioners also stated that low pressure is a common complaint occurring at all times of the day. The Commission, by Order dated June 28, 1977, allowed the intervention.

On July 5, 1977, the Commission issued an Order changing the location of the hearing to Charlotte, North Carolina, and requiring that notice of this change be given to the customers by mailing and/or hand delivering such notice. An amended certificate of service was filed at the hearing reflecting that the Company had sent out the notice as required.

On July 6, 1977, the Public Staff, by Hugh A. Wells, Executive Director, filed Notice of Intervention pursuant to G.S. 62-15(d). By Order issued on July 7, 1977, the Commission recognized the intervention of the Public Staff.

On July 11, 1977, the Public Staff filed a Motion to Dismiss the application of the Company or, alternately, to continue the hearing until receipt of additional data. In support of its motion, the Public Staff maintained as follows: (1) the financial data submitted by the Company in its application did not include any historical data; (2) all the revenues and expenses presented in the application were estimate of what twelve months' operation will be in a future test year (to wit, February 1, 1977 - January 31, 1978); and (3) the application, thusly, does not comply with the requirements of Commission Rule R1-17 dealing with contents of filing of applications.

At the call of the matter for hearing, the Applicant, the Public Staff, members of the Bahia Bay Community Association, and a large number of public witnesses were present. Mr. S. L. Brattain, Ms. Marge Plyler, Mr. James MacGraw, Ms. Julia Shipes, and Mr. George Rushing testified for the Company. Thirteen (13) customers of the Company took the stand and testified as public witnesses detailing the many complaints of the Company's customers.

Prior to the taking of evidence, the Commission ruled to deny the Public Staff's Motion to Dismiss the application or, alternately, to postpone the hearing.

During the course of the hearing, the Company sought to introduce a profit and loss statement for the five months ending on June 30, 1977, and a balance sheet dated June 30, 1977. The Public Staff objected to the introduction of this evidence as this data had not been either prefiled with the Commission nor presented to the Public Staff for analysis prior to the hearing. The Commission decided to accept the exhibits but to defer cross-examination until a reopening of the hearing to be held after the Public Staff had time to examine the exhibits in detail.

On August 4, 1977, the Commission issued an Order reconvening the public hearing on Friday, August 19, 1977, at 9:30 a.m. in the Dobbs Building, Raleigh, North Carolina.

The hearing was reconvened as scheduled. Mr. W. A. Farnsworth, Mr. S. L. Brattain, and Ms. Marge Plyler testified for the Company. Mr. Harold V. Aiken, an Engineer in the Water and Sewer Section of the Public Staff, and Mr. Donald E. Daniel, Coordinator of the Gas and Water Section of the Accounting Division of the Public Staff, testified for the Public Staff.

Based on the prefiled testimony and exhibits, the matters and things testified to at the hearing, and the entire record in this matter, and dockets referenced herein of which judicial notice is taken, the Commission now makes the following

FINDINGS OF FACT

1. That Mecklenburg Utilities, Inc., is a public utility corporation, organized and existing under the laws of the State of North Carolina.

2. That Mecklenburg is engaged in the business of providing water utility service to seven (7) service areas in North Carolina and sewer service to two (2) service areas in North Carolina.

3. That on March 7, 1967, in Docket No. W-226, the Commission granted a Certificate of Public Convenience and Necessity to A & B Realty, Inc., and set rates for a water utility system for Huntington Forest Subdivision in Mecklenburg County, North Carolina. The Commission's file in Docket No. W-226 shows the system plans were approved in 1964, so the system was to have begun in 1964.

4. That on May 29, 1968, in Docket No. W-249, the Commission granted a Certificate of Public Convenience and Necessity to Westside Development Co., Inc., and set rates for a water utility system for Westwood Forest Subdivision in Mecklenburg County, North Carolina. The Commission's file in Docket No. W-249 shows the system plans were approved in 1967, so the system was to have begun in 1967.

5. That on May 29, 1968, in Docket No. W-245, the Commission granted a Certificate of Public Convenience and Necessity to Hambright McCoy, Inc., and set rates for a water utility system for Wildwood Green Subdivision in Mecklenburg County, North Carolina. The Commission's file in Docket No. W-245 shows the system plans were approved in 1966, so the system was to have begun in 1966.

6. That on May 29, 1968, in Docket No. W-248, the Commission granted a Certificate of Public Convenience and Necessity to A. M & H Co., Inc., and set rates for a water

utility system for Bahia Bay Subdivision in Mecklenburg County, North Carolina. The Commission's file in Docket No. W-248 shows the system plans were approved in 1966 so the system was to have begun in 1966.

7. That on November 23, 1970, in Docket No. W-283, the Commission granted a Certificate of Public Convenience and Necessity to AF&F Co., Inc., and set rates for a water utility system for Eastwood Forest Subdivision in Mecklenburg and Union Counties. The Commission's file in Docket No. W-283 shows the system plans were approved in 1966, so the system was to have begun in 1966.

8. That on April 5, 1971, the Commission by Order approved the merger and transfer of the Certificates of Public Convenience and Necessity from A & B Realty, Inc., on Huntington Forest Subdivision, AF&F Co., Inc., on Eastwood Forest Subdivision, A. M & H Co., Inc., on Bahia Bay Subdivision, Hambright McCoy, Inc., on Westwood Forest Subdivision and Westside Development Co., Inc., on Wildwood Green Subdivision to Investment Land Sales, Inc.

9. That on May 7, 1973, in Docket No. W-302, Sub 1, the Commission by Order granted a Certificate of Public Convenience and Necessity to Investment Land Sales, Inc., and set rates for water and sewer utility systems for Lamplighter Village Subdivision located in Mecklenburg County, North Carolina. The annual reports to the Commission by Investment Land Sales shows the Lamplighter Village water and sewer systems were begun in 1973.

10. That on May 7, 1973, in Docket No. W-379, Sub 1, the Commission by Order granted a Certificate of Public Convenience and Necessity to Bill Allen Enterprises, Inc., and set rates for water and sewer utility systems in Lamplighter Village Subdivision South, located in Mecklenburg County, North Carolina. The annual reports to the Commission filed by Bill Allen Enterprises shows the Lamplighter Village South water and sewer systems were begun in 1973.

11. That prior to September 2, 1976, Investment Land Sales, Inc., and Bill Allen Enterprises, Inc., filed bankruptcy in the United States District Court for the Western District of North Carolina and Richard T. Meek of Charlotte, North Carolina, was appointed Trustee in Bankruptcy for both companies.

12. That on September 2, 1976, Mecklenburg Utilities, Inc., in Docket No. W-617 applied for approval of the Commission to purchase said public utility franchises from Richard T. Meek, Trustee in Bankruptcy, and by Order dated September 21, 1976, the Commission issued an Order authorizing Mecklenburg Utilities, Inc., to purchase said water and sewer utility systems from Richard T. Meek, Trustee in Bankruptcy, upon the condition that Mecklenburg Utilities, Inc., notify the Commission in writing

immediately upon consummation of the purchase of said systems; said Order further authorized Mecklenburg Utilities, Inc., to charge, upon the purchase of such systems, as interim rates, "those rates which were previously approved by the Commission for water and sewer utility service by Bill Allen Enterprises, Inc., and by Investment Land Sales, Inc."

13. That on February 2, 1977, Mecklenburg Utilities, Inc., purchased said water and sewer utility systems, along with one additional system located in the State of South Carolina, serving a subdivision known as Black Horse Run Subdivision for a purchase price of $118,000; the Commission was duly notified by letter of February 2, 1977, of the consummation of the purchase of the water and sewer systems as required by the September 21, 1976, Order of the Commission.

14. That on February 15, 1977, the Applicant purchased from Richard T. Meek, Trustee in Bankruptcy, various items of business personal property for a total price of $15,250; all of such business personal property has been sold, disposed of, or set aside for disposal except for the following items to be used by Mecklenburg Utilities, Inc., in connection with the operation of said water and sewer utility systems, to wit: one gill pulverizer, one Ford bushhog, one air compressor with rock drill and bits, one Ditch Witch trencher, one 1972 Ditch Witch trailer, one 1972 Ford Van and one used mobile home.

15. That the cost to the Applicant for the purchase of the water and sewer utility systems, including the real property situated thereon, the one system located in the State of South Carolina, and the capital expenses relating thereto, was $61,250 and $59,926, respectively, the original cost to Applicant of the service equipment retained for the use and operation of the water and sewer systems purchased was $6,000 out of the total purchase price thereof of $15,250, and the total original cost of the real and personal property to the Applicant for both the North Carolina and South Carolina properties was $127,176. After providing for a reasonable allocation of original cost to the South Carolina water system in the amount of $10,830, a reasonable original cost of Mecklenburg's property used and useful in providing water and sewer services in North Carolina is $116,346; the reasonable accumulated provision for depreciation is $6,118; and the reasonable original cost less depreciation is $110,228.

16. That the reasonable allowance for working capital is $6,431.

17. That the Company's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $69,996 under the present rates and, after giving effect to the Company's proposed rates, are $117,212.

18. That the level of test year operating expenses after accounting and pro forma adjustments is $74,376, which includes an amount of $6,118 for depreciation.

19. That the pro forma rate of return on original cost net investment under the Company's present rates is a negative 3.75% and after giving effect to the Company's proposed rates, would be a positive 29.13%.

20. That a fair rate of return that Mecklenburg should have an opportunity to earn is 12.96%, which requires the annual operating revenues of $91,096.

21. That the schedule of rates proposed by the Public Staff should be approved as just and reasonable and as necessary to enable the Company to meet its revenue requirements.

22. That the water utility service is adequate but is in need of certain improvements especially in the area of adequate water pressure, fewer outages, and meter reading.

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

The evidence for these findings comes from the official records of the Commission and the verified application of Mecklenburg Utilities, Inc. These findings are essentially informational and procedural and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACTS NOS. 3 - 13

The evidence for these findings comes from the official records of the Commission, the verified application of the Company, the exhibits of the Company presented at the opening of the Company's case, and the annual reports filed with the Commission by Mecklenburg Utilities, Inc., Investment Land Sales, Inc., and Bill Allen Enterprises, Inc. These findings are for informational purposes and were not contested by either party.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding is to be found in the testimony of Company witness S. L. Brattain and the Applicant's Exhibit No. 4 which is a copy of the bill of sale of various items of business personal property purchased by Mecklenburg Utilities, Inc., from Richard T. Meek, Trustee in Bankruptcy. This finding was uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The Commission will now analyze the testimony and exhibits presented by Company witness Plyler and Public Staff witness Daniel concerning the original cost net investment in water and sewer plant in service in North Carolina. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

Item (a)	Company Witness Plyler (b)	Staff Witness Daniel (c)
Total Company water and sewer plant in service:		
Water	$119,176	$ 58,217
Sewer	2,000	56,959
Total	121,176	115,176
Equipment	6,000	6,000
Total Company plant in service	127,176	121,176
Less: Portion allocated to South Carolina		
Water	7,669	10,293
Sewer	-0-	-0-
Plant in Service allocated to North Carolina	119,507	110,883
Less: Allowance for depreciation:		
Water	13,681	1,716
Sewer	-0-	1,661
Equipment	1,285	1,285
Total	14,966	4,662
Net plant in service	$104,541	$106,221

As shown in the above chart, the witnesses agree with regard to the components which should be used to calculate the net investment in water and sewer plant in service, but they disagree with regard to the amount. The first area of disagreement is the allocation of the purchase price between the water and sewer systems. The Company allocated the purchase price between the water and sewer systems based on the judgment of Company officials as to the current value and income producing capability of each system. The Public Staff based its allocation of purchase price to the two systems on the original cost of the systems to Bill Allen Enterprises, Inc., the previous owner of the systems.

The Public Staff in its original testimony allocated only $115,176 between the water and sewer system instead of using the correct amount of $121,176. The error was that the Public Staff believed the $121,176 to be the total cost of the water and sewer systems including the equipment cost. However, the correct total cost should be $127,176 which is the $121,176 for the water and sewer systems plus the equipment cost of $6,000.

The Commission concludes that the purchase price should be allocated between the two systems based on their original cost to Bill Allen Enterprises, Inc., and using the correct total cost of $121,176, finds that the proper level of cost to be included for the water and sewer systems is calculated as follows:

	Original Cost Bill Allen Enterprises	Percent	Cost to Mecklenburg Utilities
Depreciable property water systems N.C.	$269,411	38.945%	$ 47,192
Depreciable property sewer systems N.C.	338,831	48.980%	59,352
Land water system - N.C.	18,430	2.664%	3,228
Land sewer system - N.C.	3,279	.474%	574
Total - N.C.	629,951	91.063%	110,346
South Carolina property	61,821	8.937%	10,830
Total	$691,772	100.000%	$121,176

Both witnesses assigned a cost of $6,000 to the service equipment retained for use and operation of the water and sewer systems. The Commission therefore concludes that $6,000 is the proper cost of the equipment.

The next area of disagreement is the amount allocated to the South Carolina water system. As discussed above, the Company made its allocation based on the judgment of the Company officials as to the current value and income producing capability of each system, while the Public Staff based its allocation on the original cost of the systems to Bill Allen Enterprises, Inc. As previously discussed, the Commission has adopted the Public Staff's allocation method and accordingly finds that $10,830 should be the proper level of cost to assign to the South Carolina water system.

The next area of disagreement is the allowance for depreciation for the water and sewer systems. The differences result from the different levels of cost used by the witnesses for the water and sewer systems and the different depreciation rates used. As previously discussed, the Commission found the proper level of cost for the water and sewer systems and will use the amounts for depreciable property for the water system of $47,192 and for the sewer system of $59,352 in their calculation of the allowance for depreciation.

Company witness Plyler in calculating her depreciation expense used a composite depreciation rate for the water system of 13.169% which she maintained was based on the estimated remaining useful lives of the assets. Inasmuch as the cost assigned to the sewer system was immaterial, the Company did not calculate a depreciation rate or assign any depreciation expense to the sewer system.

In his original prefiled testimony, Public Staff witness Daniel calculated his depreciation expense for the water and sewer systems using rates provided by Public Staff witness Aiken which were based on guidelines provided by the National Association of Regulatory Utilities Commissions. During cross-examination, the Public Staff witness Aiken admitted that no consideration had been given to the age of the systems. After conclusion of the hearing, Public Staff witness Aiken recalculated his composite rates for the water and sewer system giving a weighting to the average age of the assets. The revised composite depreciation rates are 5.876% for the water systems and 3.471% for the sewer system.

The Commission concludes that the proper depreciation rates to be used in calculating depreciation expense should be the rates developed by the Public Staff. When applying these composite rates to the proper cost levels for the water and sewer systems found above, the depreciation expense is as follows:

	Original Cost	Composite Rate	Depreciation Expense
Water System	$ 47,192	5.876%	$2,773
Sewer System	59,352	3.471%	2,060
	$106,544		$4,833

Both witnesses calculated $1,285 as the depreciation expense for equipment. The Commission therefore concludes that $1,285 is the proper level of depreciation expense for equipment to be included in test year operations.

Consistent with the calculation of depreciation expense, the Commission used allowance for depreciation of $6,118 in its calculation of original cost net investment in water and sewer plant in service.

The Commission concludes that the following calculation of net investment in water and sewer plant in service is appropriate for use herein:

Total Company water and sewer plant in service	
Water	$ 61,250
Sewer	59,926
Total	121,176
Equipment	6,000
Total Company plant in service	127,176
Less: Portion allocated to South Carolina	
Water	10,830
Sewer	-0-
Plant in service allocated to North Carolina	116,346
Less: Allowance for depreciation	
Water	2,773
Sewer	2,060
Equipment	1,285
Total	6,118
Net plant in service	$110,228

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Commission will now analyze the testimony and exhibits of Public Staff witness Daniel concerning the amount properly includable in the original cost net investment as an allowance for working capital. The Company did not provide the Commission with a calculation.

Public Staff witness Daniel calculated his allowance for working capital by taking one-eighth of the difference between total operating expenses less purchased power, payroll taxes, property taxes, depreciation - systems and depreciation - equipment. The Commission concludes that this is the proper method to use in calculating the allowance for working capital and, taking into consideration the changes which have occurred after the close of the hearing, finds $6,431 to be the proper working capital allowance.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

Company witness Plyler and Public Staff witness Daniel 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 Plyler	Staff Witness Daniel
(a)	(b)	(c)
Operating revenues	$66,411	$69,996

The difference in the amount of operating revenues proposed by the two witnesses arises from the different

methods used to determine the revenues for the Bahia Bay area. Apparently the Company assumed flat rate revenues for Bahia Bay in its computations as this system had only recently been metered and consumption data was unavailable. The Public Staff assumed, for purposes in its calculation, the customers in Bahia Bay would average 6,000 gallons per month. The Company did not contest the Public Staff's calculation of operating revenue.

The Commission concludes that the method used by the Public Staff in calculating operating revenues is appropriate for use herein and therefore finds $69,996 to be the proper level of operating revenues under existing rate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Company witness Plyler and Public Staff witness Daniel offered testimony and exhibits presenting the level of operating revenue deductions which they believe should be included in test year operations. The following chart sets forth the amounts presented by each witness:

Item	Company Witness Plyler	Staff Witness Daniel
(a)	(b)	(c)
Total operating expenses	$87,353	$72,920

One area of disagreement is the amount properly includable for consulting and management fees. The Company included $10,000 in consulting and management fees which the Company considered a necessary expense for the proper operation of the system. The Public Staff reduced the consulting and management fees to $5,000. Mr. Aiken stated that his past experience has shown that salaries in the range of $30,000 have proven adequate for systems of similar size. Mr. Daniel stated that salaries are already included for maintenance, bookkeeping, billing, customer complaints and other management functions normally covered by a management fee.

The Commission concludes that the consulting and management fees recommended by the Public Staff are reasonable compensation for the services performed by the management of Mecklenburg Utilities, Inc., and accordingly finds $5,000 as the proper amount to be included as consulting and management fees in calculating total operating expenses.

Another area of disagreement is depreciation expense for the systems. As previously discussed, we have adopted Staff witness Daniel's revised levels of cost and revised composite depreciation rates for the water and sewer systems to use in calculating depreciation expense. When applying these composite rates to the proper cost levels for the water and sewer systems, the Commission found $4,833 to be

the proper amount to be included as depreciation expense on the systems in calculating total operating expenses.

The other areas of disagreement were not contested; therefore, based on the evidence offered by the witnesses, the Commission concludes that the proper level of operating expenses should be $74,376.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19, 20 AND 21

The Company in this case filed its original application based entirely on pro forma data and upon a future test year period. The application, therefore, did not comply with the statutory mandate of G.S. 62-133. The Company's application, furthermore, failed to comply with Commission Rule R1-17 dealing with the contents of filing of applications which requires the following: (1) a statement covering the last twelve consecutive months showing gross operating revenues, expenses incurred, and net operating income for return on investment; (2) an income statement for a recent representative period; and (3) working papers and supporting data for the above. As a result of these omissions and of the totally prospective nature of the application, it was impossible, ab initio, for the Commission and/or Public Staff to conduct an investigation of the Company's operations - especially, since the Company lacked proper books and records of its past operations. Under these circumstances, the Commission concludes that the Company's application should be treated as a request for interim and/or emergency relief and should be very carefully scrutinized.

The Company at the hearing did present operating results for the first five and six months' operations. While this information was helpful to the Commission in reaching its decision, it does not provide the certainty, accuracy, or normality that a full years' operating results would have provided. This is true, a fortiori, considering that the Company during this period was in the process of reorganization after the bankruptcy. As such, fairness to the Company's ratepayers requires that such information be viewed very critically in determining the fair rate of return to be awarded based on this tentative data.

Another factor to be considered in determining the fair rate of return is the Company's capital structure. Witness Daniel in his testimony pointed out that the Company is very thinly capitalized with only $6,000 of equity capital for an investment which required total capital of $122,000. The Company's debt of $119,052 on which interest is being charged has more of the characteristics of equity than of debt in that this debt is to stockholders and is so very large. The interest being paid on this debt, thusly, is in the nature of a return on equity. Noting that a 12% cost of debt must represent an acceptable return to the debt owner who is also a stockholder, and agreeing that the debt has

many of the characteristics of equity capital in that the debt holder is a major stockholder and that the embedded cost of the debt is high (12%), the Commission concludes that a 12.96% rate of return based on the treatment of the high interest stockholder loan as debt is not unreasonable. The Commission's determination of fair rate of return should thusly be lower than if this large stockholder debt was not present.

Based on the Commission's analysis, as presented above, and on the testimony presented at the hearing, the Commission concludes that a fair reasonable rate of return for the Company to earn is 12.96% and that total operating revenues of $91,096 will be required to produce this rate of return.

The Commission concludes that a water rate structure of a $5.50 minimum charge per month to include the first 3,000 gallons plus $1.00 per 1,000 gallons for all consumption over 3,000 gallons will produce $62,716 in annual revenues and that a flat rate sewer charge of $11.00 per month will produce $28,380 in annual revenues. The total annual revenues for water and sewer based on these rates would thus equal $91,096.

The following chart summarizes the gross revenues and rate of return which the Company should have a reasonable opportunity to achieve based upon the partial rate increase approved herein. Such chart incorporated the findings, adjustments and conclusions herein made by the Commission.

MECKLENBURG UTILITIES, INC.
STATEMENT OF RETURN

Line No.	Item (1)	Present Rates (2)	Adjustment (3)	Approved Rates (4)
1.	Net Operating Revenues	$ 69,996	$21,100	$ 91,096
2.	Operating Revenue Deductions:			
3.	Salaries	23,660		23,660
4.	Office Rent	1,800		1,800
5.	Telephone and Answering Service	930		930
6.	Power	12,901		12,901
7.	Meter Reading	1,886		1,886
8.	Postage	989		989
9.	Testing for Sewer	3,780		3,780
10.	Insurance	1,000		1,000
11.	Printing and Office Supplies	578		578
12.	Repairs	1,850		1,850
13.	Maintenance	2,978		2,978
14.	Water Fees to State	448		448
15.	Truck Expense	1,500		1,500
16.	Miscellaneous	1,200		1,200
17.	Payroll Taxes	2,129		2,129
18.	Property Taxes	1,858		1,858
19.	Consulting and Management	5,000		5,000
20.	Depreciation - System	4,833		4,833
21.	Depreciation - Equipment	1,285		1,285
22.	Legal and Accounting	1,800		1,800
23.	Franchise Tax	2,800	844	3,644
24.	Income Taxes - State		182	182
25.	Income Taxes - Federal		570	570
26.	Allocation of Expenses to South Carolina	(829)		(829)
27.	Total Revenue Deductions	74,376	1,596	75,972
28.	Net Operating Income (Loss) for Return	$ (4,380)	$19,504	$ 15,124

29.	Original Cost Net Investment		
30.	Water and Sewer Plant in Service:		
31.	Water	$ 61,250	$ 61,250
32.	Sewer	59,926	59,926
33.	Total	121,176	121,176
34.	Equipment	6,000	6,000
35.	Total Plant in Service	127,176	127,176
36.	Less: Portion Allocated to South Carolina	10,830	10,830
37.	Plant in Service Allocated to North Carolina	116,346	116,346
38.	Less: Allowance for Depreciation		
	Water	2,773	2,773
	Sewer	2,060	2,060
	Equipment	1,285	1,285
	Total	6,118	6,118
39.	Net Plant in Service	110,228	110,228
40.	Allowance for Working Capital	6,431	6,431
41.	Total Original Cost Net Investment	$116,659	$116,659
42.	Return on Original Cost Net Investment	(3.75%)	12.96%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 22

Testimony by numerous public witnesses referred to various service complaints ranging from low pressure and discolored water to the lack of a community swimming pool. The Commission understands that much of the customer dissatisfaction arose from unresolved problems with the previous owner who was also the developer for these subdivisions. It is, however, expected of the Applicant that the water and sewer utility service be improved to an acceptable level. The testimony in this proceeding indicated problems existing with water pressure, water outages, and meter reading. Therefore, steps need to be made to assure adequate water pressure at all times to all customers' service connections. Also, necessary maintenance should be implemented to reduce the number of outages experienced by the customers. Finally, careful examination of the meter reading practices should be made. Lack of consumer confidence regarding meter reading can only serve to create mistrust and further dissatisfaction in the service.

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates attached hereto as Appendix A be, and is hereby, approved and that this Schedule of Rates be, and is herely, deemed to be filed with the Commission pursuant to G.S. 62-138.

2. That the Schedule of Rates attached hereto be, and is hereby, authorized to become effective for water and sewer service furnished on and after November 1, 1977.

ISSUED BY ORDER OF THE COMMISSION.
This the 31st day of October, 1977.

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

APPENDIX "A"
DOCKET NO. W-617, SUB 1
MECKLENBURG UTILITIES, INC.
ALL SERVICE AREAS

WATER AND SEWER RATE SCHEDULE

METERED RATES: (Residential Service)

Water: Up to first 3,000 gallons per month - $5.50 minimum
All over 3,000 gallons per month - $1.00 per 1,000 gallons

FLAT RATE: (Residential Service) Sewer: $11.00 per month.

CONNECTION CHARGES:

$297.50 for lots where no tap fee has ever been collected.
$100.00 meter charge (not applicable to lots paying $297.50 tap fee).

RECONNECTION CHARGES:

If water service cut off by utility for good cause (NCUC Rule R7-20f): $ 4.00
If water service discontinued at customer's request (NCUC Rule R7-20g): $ 2.00
If sewer service cut off by utility for good cause (NCUC Rule R10-16f): $15.00

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-617, SUB 1 ON OCTOBER 31st, 1977.

DOCKET NO. W-263, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by L. A. Reynolds Industrial District, T/A Seven Devils Resort, Post Office Box 427, Boone, North Carolina, for Authority to Increase Rates for Water Utility Service in Seven Devils Resort, Watauga and Avery Counties, North Carolina	) RECOMMENDED ORDER INCREASING RATES

HEARD IN: Watauga County Courthouse, Boone, North Carolina, on September 15, 1977

BEFORE: Commissioner Robert Fischbach, Presiding; and Commissioners Tenney I. Deane* and John W. Winters

APPEARANCES:

For the Applicant:

William S. Mitchell, Booe, Mitchell, Goodson and Shugart, P. O. Box 1237, Winston-Salem, North Carolina 27102

For the Public Staff:

Paul L. Lassiter, Staff Attorney, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On January 1, 1977, Wade W. Phillips, Trustee in Bankruptcy of L. A. Reynolds Industrial District, Inc., filed an application seeking authority to increase rates for water utility service in the Seven Devils Resort Development in Watauga and Avery Counties, North Carolina.

By Order issued January 18, 1977, the matter was declared to be a general rate case, the proposed rates were suspended for up to 270 days, and the Applicant was required to give public notice specifying that unless protests were received concerning the proposed rates, the matter would be determined without public hearing. Public notice was given as required by the Commission, and customer protests were received.

By Order issued August 26, 1977, the matter was scheduled for public hearing, and the Applicant was required to give public notice of the hearings. Public Notice was given as required by the Commission, and the hearing was convened at the scheduled time and place. Wade W. Phillips, Trustee in Bankruptcy; David Burke, CPA; Barbara Presnell, Bookkeeper; and Charles Tomlinson, General Manager of Seven Devils, testified at the hearing on behalf of the Applicant. Jana K. Hemric, Staff Accountant, and Richard W. Seekamp, Staff

Engineer, testified on behalf of the North Carolina Utilities Commission Public Staff. No customers appeared at the hearing.

Based upon the foregoing, the testimony and exhibits offered at the hearing, and the Commission's entire files and records in this matter, the Commission now makes the following

FINDINGS OF FACT

1. That L. A. Reynolds Industrial District, Inc., holds a franchise granted by the North Carolina Utilities Commission to furnish water service in the Seven Devils Resort and that the rates approved by the Commission prior to the present application are $5.00 per month for residential customers and $15.00 per month for the motel restaurant.

2. That Wade W. Phillips operates the L. A. Reynolds Industrial District, Inc., water system as trustee in bankruptcy for the corporation and proposes to increase rates for the water services to $15.00 per month for residential customers and $45.00 per month for the motel restaurant and to raise tap on fees for new connections from $100.00 to $125.00.

3. That the original cost of water plant in service at the end of the test period, which was 12 months ended December 31, 1976, was $180,465.

4. That to the original cost figure of $180,465 is added the cash working capital of $1,587 to produce a total investment of $181,952.

5. That the accumulated depreciation of $30,850 and the contributed property of $3,552, or a total of $34,402, are subtracted from the total investment of $181,952 to produce a net investment of $147,550.

6. That the Applicant's revenues for water service under its present rates for the test period, after Staff adjustments, were $7,233.

7. That the Applicant would have collected $20,913 in revenues under its proposed rates.

8. That the Applicant's operating expenses for the test period, after Staff adjustments, totaled $17,987.

9. That, had the Applicant's proposed rates been in effect during the test period, the Applicant's total operating expenses would have totaled $18,713.

10. That, under the Applicant's present rates, the test period operating ratio for the water system was 248.68%.

11. That under the Applicant's proposed rates, the test period operating ratio for the water system would have been 89.48%.

12. That the existing plant is excessive to serve the present number of customers and that $72,293 is subtracted from the original cost net investment of $147,550 in order to eliminate excess plant attributable to transmission and distribution mains, leaving an original cost net investment of water plant in service of $75,357.

13. That the amount of depreciation expense should be reduced from $5,718 to $3,347, due to the excessive plant and that total operating expenses for the test period, after removing excess plant, would be $15,616.

14. That under the schedule of rates approved herein the operating ratio will be 90.79%, which is just and reasonable.

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

These findings are based on the official records of the Commission and on the verified application of the Applicant.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding is contained in the testimony of Public Staff witness Hemric and the Affidavit of Wade W. Phillips, which is a part of the official Commission file. Public Staff witness Hemric presented $187,465 as water plant in service in her testimony. This amount contained $36,676 classified as Construction Work in Progress on the Company books. At the hearing, the question arose as to whether this amount was actually in service. Company witness Phillips addressed this issue in his Affidavit, stating that $29,676 of the amount classified as Construction Work in Progress was in service and that $7,000 had not yet been placed into service. By subtracting $7,000 from the $187,465 presented by the Public Staff, the Commission concludes that water plant in service is $180,465.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this finding of fact is contained in the testimony of Public Staff witness Hemric and the Affidavit of Wade W. Phillips. The inclusion of additional operation and maintenance expense based on Company witness Phillips' Affidavit in determining the cash requirement will be explained in detail in the Evidence and Conclusions for Finding of Fact No. 9.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence for this finding of fact is contained in Exhibit No. 4 filed by the Company and the testimony and

exhibits of Public Staff witness Hemric. Public Staff witness Hemric included $26,961 as accumulated depreciation in her testimony and exhibits. Public Staff witness Hemric allowed the same amount of depreciation, $3,773, for 1975 and 1976 as was allowed in 1974, which was the last year depreciation was recorded on the Company books. The Company presented $5,718 as the depreciation expense to be recorded in both 1975 and 1976. This amount produces a composite depreciation rate of 3.23%, which is reasonable. By adding $11,436 ($5,718 for 1975 and $5,718 for 1976) of depreciation expense to accumulated depreciation of $19,414, the balance at the end of 1974, the accumulated depreciation becomes $30,850 at the end of the test year. The Commission concludes that this is the proper amount of accumulated depreciation.

Public Staff witness Hemric presented $3,552 as the amount of contributed property to be deducted from the rate base. This amount was also presented in Applicant's Exhibit 4. The Commission concludes that $3,552 is the proper amount of contributed property.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence for this finding of fact can be found in the testimony and exhibits of Public Staff witness Hemric. Although Applicant's Exhibit No. 4 presents $7,373 as test year revenues, the difference of $140 between the Applicant's Exhibit No. 4 and the testimony and exhibits of Public Staff witness Hemric is deemed to be immaterial. Therefore, the Commission concludes that the revenues for water service under present rates are $7,233.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Both Public Staff witness Hemric's exhibits and testimony and the Applicant's Exhibit No. 4 presented $13,680 as the gross revenue increase under proposed rates. Based on the Evidence and Conclusions for Finding of Fact No. 7, the Commission concludes that the revenues under proposed rates would be $20,913.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Public Staff witness Hemric presented $10,909 as the amount of operating expenses incurred during the test period. Of this amount, $4,156 was included as electric expense for pumps. At the hearing, the Company disputed the amount allowed as electric expense, stating that the proper amount was $5,380. The Company introduced Applicant's Exhibit No. 5, total Company power bills for the test year, to support its contention. Upon examination of Applicant's Exhibit No. 5, it was learned that bill separations supporting the $1,224 difference were not included. The bill separations designated as expense for utility operations supported Public Staff witness Hemric's amount of

$4,156. Therefore, the Commission concludes that $4,156 is the proper amount of electric expense to be allowed.

The $10,909 of operating expenses presented by Public Staff witness Hemric included $379 for repairs and maintenance wages and $357 of repairs to plant. The Company stated that during the test period these amounts were understated due to lack of funds available to incur such expenses. The Company also presented operating data for prior years to show the amount of expense incurred for these items. The Company subsequently submitted operating data for the eight months ended August 31, 1977. Salaries and wages for that period of time totaled $2,439, and repairs and maintenance amounted to $1,807. By annualizing these amounts, salaries and wages become $3,659 and repairs and maintenance $2,711. The Commission concludes that these amounts are representative of a normal operating level of the water system and should be included as part of the operating expenses.

The difference in depreciation expense as presented by the Company and Public Staff witness Hemric was addressed in the Evidence and Conclusions for Finding of Fact No. 5. The Commission concludes that the proper depreciation expense for the period is $5,718, before any adjustment for excess plant.

The remaining operating expenses presented by Public Staff witness Hemric were uncontested by the Company. The Commission therefore concludes that operating expenses for the test period were $17,987.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence for this finding of fact is that the additional expenses (State and federal income taxes) associated with the proposed increase are functions of the net operating loss of the test period added to the gross revenue increase and multiplied by the appropriate tax rates. The Commission concludes that, had the proposed rates been in effect during the test period, operating expenses would have totaled $18,713.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Based on the Conclusions for Findings of Fact No. 6 and No. 8, the Commission concludes that the operating ratio under present rates for the water system is 248.68%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Based on the Conclusions for Findings of Fact No. 7 and No. 9, the Commission concludes that the operating ratio under proposed rates for the water system would be 89.48%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Public Staff witness Seekamp presented a study showing that the water system was installed to serve 360 lots at a time when it did not have enough actual customers to support such a large capital expansion program. Under Commission Rule R7-16 regarding extension of mains the utility company could have required the developer of the 360 lots to advance the funds necessary for construction of the water system, and, thus, the utility company need only have reimbursed the developer for such advanced funds as each of the 112 present customers was added to the water system. This would have reduced the actual investment in the water system by the utility company to an amount more consistent with the fair share of the total investment being borne by the present customers. The Commission concludes that an excess plant adjustment is warranted.

This adjustment is computed by removing from the total investment in mains of $139,801 two-thirds of the investment or $93,247 and by removing accumulated depreciation of $9,896 applicable to such excessive mains. The $139,801 investment in mains is arrived at by adding to the investment in mains of $110,125 on the Company books, the $29,676 of mains classified as construction work in progress in Company records but actually in service according to the Affidavit of Company witness Phillips. Two-thirds of the total investment in mains is removed, based on the testimony of Public Staff witness Seekamp, leaving an investment in water plant in service used and useful to the present customers of $87,218. The corresponding accumulated depreciation applicable to excessive mains is removed by reducing the depreciation applicable to the mains each year of the plant's existence by two-thirds. Accumulated depreciation, following this adjustment, is $9,896. The Commission concludes that the original cost net investment at the end of the test period, after adding cash requirements of $1,587 to water plant in service of $87,218 and subtracting accumulated depreciation of $9,896 and contributed property of $3,552, is $75,357.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Based on the Evidence and Conclusions for Finding of Fact No. 12, the Commission concludes that depreciation expense applicable to the excess plant should be eliminated and that the proper depreciation expense for these purposes is $3,347, with total operating expenses for the test period being $15,616.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The Applicant did not request that its rates be fixed under G.S. 62-133(b). The Commission must, therefore, determine whether rates should be fixed on the rate base method or on the operating ratio method. Since the Applicant is in bankruptcy and as a result is not in the

capital attraction market, the Commission concludes that the operating ratio method should be used to determine rates that are just and reasonable in this case.

Based on the record herein, the Commission concludes that an operating ratio of approximately 9|% is fair and reasonable. This conclusion is based on and limited to the unique and exigent circumstances of the case. From all accounts the Company is in severe financial straits and may be forced by the federal bankruptcy judge to cease water operations if the cash flow from the water operations is not improved. The Company's present cash flow problems, however, are inextricably related to the Company's having made excess investment in the past that now must be paid for by present cash flow dollars. If the Commission awards what would normally be a proper operating ratio, the Company may be forced to cease its operations entirely. Faced with a Hobson's choice, the Commission is forced into approving an operating ratio which is higher than would be fair and reasonable absent such unusual circumstances. The Commission is, out of necessity, being generous to the Company in two respects: (|) by the award of a lower than normal operating ratio; and (2) by the liberal allowance of certain expenses making up that operating ratio.

The Commission concludes that the schedule of rates listed in Appendix "A" will generate annual operating revenues of $|7,796 and that the related operating expenses would be $|6,|57 under such rates. This produces an operating ratio of 90.79% which the Commission concludes to be fair and reasonable under the circumstances. The Commission further concludes that the schedule of rates listed in Appendix "A" should be approved as being fair and reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

|. That the Schedule of Rates attached hereto as Appendix "A" be, and is hereby, approved and that this schedule of rates be, and is hereby, deemed to be filed with the Commission pursuant to G.S. 62-|38.

2. That the Schedule of Rates attached hereto be, and is hereby, authorized to become effective for water service furnished on and after November |, |977.

ISSUED BY ORDER OF THE COMMISSION.
This the |st day of November, |977.

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

*Deane, Commissioner, not participating.

L. A. REYNOLDS INDUSTRIAL DISTRICT, INC.
Seven Devils Resort in Watauga and Avery Counties

WATER RATE SCHEDULE

FLAT RATE: (Residential Service - Including Condominiums, Cottages, Each Motel Inn Room):

Each Residence - $13.50 per month

FLAT RATE: (Commercial Service - Restaurant):

Each Commercial Customer - $40.00 per month

CONNECTION CHARGE: $125.00 tap-on fee.

RECONNECTION CHARGES:

If water service cut off by utility for good cause (NCUC Rule R7-20f): $4.00
If water service discontinued at customer's request (NCUC Rule R7-20g): $2.00

BILLS DUE: On billing date.

BILLS PAST DUE: Thirty (30) days after billing date.

BILLING: Shall be quarterly, for service in arrears.

ISSUED IN ACCORDANCE WITH AUTHORITY GRANTED BY THE NORTH CAROLINA UTILITIES COMMISSION IN DOCKET NO. W-263, SUB 3, ON NOVEMBER 1, 1977.

DOCKET NO. W-201, SUB 16

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by W. E. Caviness, d/b/a Touch and Flow Water System, 118 Poplar Street, Jacksonville, North Carolina, for Authority to Increase Rates for Water Utility Service in Colonial Heights and Royal Acres in Wake County, and Tulls Bay Colony in Currituck County, North Carolina	) RECOMMENDED ORDER GRANTING PARTIAL RATE INCREASE

HEARD IN: The Library of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on March 3, 1977

BEFORE: Chairman Tenney I. Deane, Hearing Commissioner

APPEARANCES:

For the Applicant:

W. E. Caviness, d/b/a Touch and Flow Water System, 118 Poplar Street, Jacksonville, North Carolina
For Himself

For the Commission Staff:

Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

DEANE, HEARING COMMISSIONER: On November 15, 1976, W. E. Caviness, d/b/a Touch and Flow Water System (hereinafter Applicant or Caviness) filed an Application with the Commission seeking authority to increase its rates for water utility service in its service areas in Wake County and Currituck County, North Carolina.

By Order issued November 26, 1976, the Commission declared the matter to be a general rate case, suspended the proposed rates, scheduled a public hearing for March 3, 1977, and required Applicant to give public notice.

Following public notice, hearing was held as scheduled.

Prior to hearing, a letter of protest was received from Willis Price and Evelyn Price, property owners in Tulls Bay Colony, Currituck County, North Carolina.

W. E. Caviness appeared at hearing and testified in his own behalf. No other witnesses were offered by Applicant.

The Commission Staff offered the testimony of Jesse Kent, Staff Accountant, and Harold Aiken, Staff Engineer.

The following customers of Applicant appeared at hearing and offered testimony as public witnesses: Howard C. Casey, Betty White, Edward Young Reavis, Johnny L. Rhue, Linda Jeffries, N. T. Robeson and Tom Wilkerson.

Based upon the foregoing, the verified application and the record as a whole, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Applicant is a certificated public utility operating in the State of North Carolina and subject to the jurisdiction of this Commission.

2. Applicant has filed an Application for authority to increase rates for water utility service in its service area as follows:

COLONIAL HEIGHTS & ROYAL ACRES

	Present	Proposed
Metered Rate (Residential Service):		
0-3,000 gal. per month, minimum charge	$4.50	$8.50
All over 3,000 gal. per month, per 1,000 gal.	$ .65	$1.25
Flat Rate (Residential Service):		
Monthly rate	$4.50	$8.50

TULLS BAY COLONY

Metered Rate (Residential Service):		
0-3,000 gal. per month, minimum charge	$4.50	$8.50
Next 12,000 gal. per month, per 1,000 gal.	$1.00	$1.25
All over 15,000 gal. per month, per 1,000 gal.	$ .90	$1.25
Flat Rate (Residential Service):		
Monthly Rate	$4.50	$8.50

3. That Applicant's gross operating revenues for the 12 months ending December 31, 1976, per books adjusted, were $11,611.

4. That Applicant would have collected $21,279 in gross operating revenues under proposed rates during the test period or an increase of $9,668.

5. That Applicant's operating expenses under present rates as adjusted by the Staff for the test period were $11,472.

6. That Applicant's operating expenses during the test period under its proposed rates would have been $13,870.

7. That operating expenses under present rates of $11,472 divided by gross operating revenues under present rates of $11,611 produces an operating ratio of 98.80%.

8. That operating expenses under proposed rates of $13,870 divided by gross operating revenues under proposed rates of $21,279 produces an operating ratio of 65.18%.

9. That the quality of water utility service provided by Applicant is adequate although certain areas need improvement.

10. That Applicant has overcharged some of its customers on tap-on fees and connection fees.

11. That Applicant is entitled to increase its rates in order to collect $1,404 in additional gross revenues. These additional revenues will produce an operating ratio of 91.14% which is just and reasonable.

12. That the rates proposed by Applicant will produce revenues in excess of those approved herein and are not just and reasonable. The proper rates to be charged by Caviness are those contained in Appendix A attached hereto.

13. That Applicant has failed to carry the burden of proof to show a need for increased connection charges.

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

The findings are based on the Commission's records, including the Application in this docket. They are procedural in nature and require no further discussion.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3 AND 4

The evidence for these findings is contained in the testimony of Staff Accountant Kent. Applicant offered no accounting testimony either in support of the Application or in rebuttal to Witness Kent.

The gross operating revenues before the proposed increase of $11,611 appears on Kent Exhibit 1, Schedules 1 and 3. This is the per book figure and the Hearing Commissioner concludes that it accurately represents the gross operating revenues of Applicant for the 12 months ended December 31, 1976.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5 AND 6

Since Applicant offered no accounting testimony, the evidence for these findings also is found in the testimony of Witness Kent. The operating expenses claimed on Applicant's books, and which appears on Kent Exhibit 1, Schedule 3, total $24,341, including $3,253 for depreciation. Witness Kent made significant adjustments to this figure. Although Applicant did not contest these adjustments at the hearing, the Hearing Commissioner concludes that said adjustments warrant full review in this Order.

These adjustments are outlined in Kent Exhibit 1, Schedule 3-1, and can be summarized as follows:

(1)	Decrease in expenses for cost of labor due to overstated charges for one maintenance employee, a bookkeeper and a secretary	$(3,000)
(2)	Decrease in operating expenses due to excess charges for repairs made by Caviness Plumbing Company	$(1,581)
(3)	Decrease expenses for excess rental charges for office space	$(2,100)
(4)	Eliminate court costs for a traffic violation	$ (30)
(5)	Decrease operating expenses for items recorded during the test period which should be charged to capital expenditures	$(3,642)
(6)	Decrease depreciation expense using Staff composite rate of 3.5%	$(2,562)
(7)	Increase expenses to allow for State income taxes	$ 11
(8)	Increase expenses to allow for Federal income taxes	$ 35

The net effect of these adjustments is to reduce operating expenses of $24,341 by $12,869, resulting in allowable expenses before the proposed increase of $11,472.

The operating expenses after the proposed increase of $13,870 contained in Finding of Fact No. 6 are based on Kent Exhibit 1, Schedule 3-2. This figure is derived by adding increased tax expenses of $2,398 to the expenses of $11,472 which existed prior to the proposed increases.

The Hearing Commissioner notes that Applicant did not contest the adjustments made by Witness Kent and concludes that they are just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7 AND 8

In setting rates in this proceeding, the Hearing Commissioner adopts the operating ratio formula authorized by G.S. 62-133.1.

Thus computed, the operating ratios for Applicant during the 12 months ending December 31, 1976, the test year, are as follows:

$$\frac{\text{operating expenses}}{\text{operating revenues}} = \text{operating ratio}$$

(1) Under existing rates:

$$\frac{\$11,472}{\$11,611} = 98.80\%$$

(2) Under proposed rates:

$$\frac{\$13,870}{\$21,279} = 65.18\%$$

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 AND 10

The evidence for this finding is found in the testimony of W. E. Caviness, the testimony of Staff Witness Harold Aiken and the testimony of the public witnesses. While the Hearing Commissioner finds and concludes that the overall level of service is adequate, there are various problems associated with the operations of Applicant which must be improved.

Witness Aiken, in discussing Applicant's operations at Colonial Heights, noted specifically that his inspection of that area revealed that some electric wires are exposed and that a pumphouse was in need of repair. The exposed electrical wiring creates a potentially dangerous situation and the Hearing Commissioner concludes and directs that it should be corrected immediately.

Since the poor condition of the pumphouse does not represent a potential danger, the Hearing Commissioner is not directing that it be repaired. However, it is noted that the customers in Colonial Heights have invested significant sums of money in their homes and it is hoped that Applicant will improve the condition of the pumphouse so that it will no longer be an embarrassment to his customers.

The Hearing Commissioner notes the appearances of the following public witnesses: Howard C. Casey, Betty White, Edward Young Reavis, Johnny L. Rhue, Linda Jeffries, N. T. Robeson and Tom C. Wilkerson. The public witnesses testified concerning various problems they had experienced with their water utility service. The problems included the following:

(1) Service interruptions without prior notice of the interruptions.

(2) Inability to reach Caviness when service repairs are needed.

(3) No local phone number included on the billing statement.

(4) Irregularities in billing procedures.

While the public witnesses recognized the existence of these problems, the overall thrust of their testimony is that the water utility service is adequate. In fact, all the public witnesses conceded that Applicant deserved a moderate rate increase but felt the increases proposed by Applicant are excessive.

The Hearing Commissioner notes specifically the testimony of Public Witness Linda Jeffries regarding a $300 tap-on fee paid to Caviness. Witness Caviness acknowledged receipt of this payment in his own testimony. The Hearing Commissioner concludes that the tap-on fee exceeded the authorized tap-on fee by $100 and that said $100 should be refunded by Applicant to Witness Jeffries at 5904 Meadowbrook Road, Raleigh, North Carolina.

Additionally, the Hearing Commissioner calls attention to Caviness Cross-Examination Exhibit 2 which Caviness conceded was a list of service charges paid by certain residents of Tulls Bay Colony and Colonial Heights and the dates when these amounts were paid. Since the Commission has approved only a $10 connection fee, the Hearing Commissioner concludes that the sums indicated below should be refunded to the individuals indicated:

TULLS BAY COLONY

1.	8-76	Brink	$10.00
2.	3-76	Dooland	3.50
3.	1-77	Ellis	10.00
4.	6-76	Edwards	3.50
5.	8-76	Fox	10.00
6.	4-76	Forehand	3.50
7.	10-76	Giles	10.00
8.	5-76	Richardson	3.50
9.	1-77	Holloway	10.00
10.	12-76	Keel	10.00
11.	9-76	Novach	10.00
12.	8-76	Leise	10.00
13.	6-76	McCoy	10.00
14.	12-76	Morrisette	10.00
15.	7-76	Leuse	10.00
16.	6-76	Moreau	10.00
17.	4-76	Story	3.50
18.	8-76	Thurston	10.00

It is noted that the above sums are relatively small and they may be refunded by crediting the customers' bills with the amounts indicated.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 AND 12

The record shows that the Applicant had for the test year a high operating ratio of 98.80% under existing rates. The Hearing Commissioner is of the opinion that an operating ratio in the range of 92% is just and reasonable in the instant case. The rates approved herein are designed to produce additional annual revenues of $1,404 or total annual revenues of $13,015. Operating revenue deductions under the approved rates are $11,862. The operating ratio is as follows:

$$\frac{\$11,862}{\$13,015} = 91.14\%$$

Given efficient management, the revenues received from the increased rates should be sufficient to allow Applicant to maintain the system in proper operating condition and to continue to render adequate service to its customers.

The Hearing Commissioner wishes to note that this proceeding has caused the Commission considerable concern. The instant proceeding is but one of many cases in which the Applicant has been involved. Some of these cases have been general rate applications instituted by Applicant and others have involved show cause proceedings instigated by the Commission due to poor service being rendered by the Applicant.

In each of the previous rate applications, the requested relief has been denied because of Applicant's continued failure to keep accurate records to justify expenses. Frankly, the records were no different in this proceeding. However, the Commission is aware that Applicant has not had a rate increase in several years and quite naturally, has suffered from the high inflation rate experienced by the general economy. In the instant proceeding, Staff Witness Kent adjusted Applicant's operating expenses and testified that the expenses listed in his testimony were just and reasonable for a utility of comparable size to Applicant. The Hearing Commissioner was persuaded by that testimony in this proceeding.

In his Application, Applicant seeks to increase his fees for connection charges. Connection charges are allowed by this Commission to permit the utility investor to recover part of the investment in utility property. The record in this case is absolutely void of any evidence to show that Applicant has made any additional investment in his utility property since the connection charges were initially set. The Hearing Commissioner thus concludes that the connection charges authorized for Applicant shall remain unchanged.

Those connection charges are included in the water rate schedule attached hereto as Appendix "A".

It is significant that Applicant claimed operating expenses more than double the amount allowed by this Order. However, Applicant offered no evidence in the form of receipts or cancelled checks to justify the expenses claimed. It is not a policy of this Commission to require the ratepaying public to pay for expenses which cannot be properly supported. The Hearing Commissioner finds it incredible that Witness Caviness, who has been engaged in business for a number of years, would not know that he should keep all receipts for proof of expenditures. It is even more remarkable that he would hire an accountant that would advise him to destroy what receipts he had.

The Commission has tried on previous occasions to assist Caviness in compiling accurate records of his utility operations but those efforts have not yet succeeded. The Hearing Commissioner is of the opinion that the utility operations of Applicant should be monitored on a monthly basis. Therefore, it is concluded that Caviness, beginning on the first (1st) day of the month following the date of this Order, should, by the tenth (10th) day of the month, bring all receipts, cancelled checks and invoices to the Accounting Division of the Commission Staff. In order to assure that these records will be properly reviewed by the Accounting Division, Applicant is directed to telephone the Staff for an appointment prior to bringing the requested information. Failure of Applicant to abide by this provision could result in the present rate increase being revoked or other appropriate sanctions. This procedure should continue until the Commission or the Accounting Division directs otherwise.

Applicant is reminded that he has the burden of proof in rate applications. Failure of Applicant to properly document expenses in the future will result in future rate applications being denied. Likewise, any evidence in the future that Applicant is charging rates or fees in excess of those authorized by the Commission will be dealt with severely.

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved and deemed to be filed with the Commission pursuant to G.S. 62-138.

2. That said Schedule of Rates is hereby authorized to become effective for water service rendered on or after the date of this Order.

3. That Caviness shall give public notice of the rate increase approved herein by mailing a copy of the Notice attached in Appendix "A" by first class mail to each of his customers during the next annual billing cycle.

4. That Caviness shall immediately take steps to remedy any exposed electrical wires which may be located near pumphouses or at any location on Applicant's systems.

5. That all overcharges listed in this Order shall be immediately refunded.

6. That by the tenth (10th) day of each month, Applicant shall present all receipts, invoices and cancelled checks for his utility operations to the Accounting Division of the Commission.

7. That Caviness include a toll-free service number on all bills rendered and notify customers when possible of service interruptions.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of May, 1977.

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

APPENDIX "A"
DOCKET NO. W-201, SUB 16
TOUCH AND FLOW WATER SYSTEM
WATER SERVICE BY TOUCH AND FLOW WATER SYSTEM IN
COLONIAL HEIGHTS
ROYAL ACRES
TULLS BAY COLONY

WATER RATE SCHEDULE

COLONIAL HEIGHTS & ROYAL ACRES

Metered Rate (Residential Service):

0-3,000 gallons per month, minimum charge	$5.25
All over 3,000 gallons per month, per 1,000 gallons	$ .65

Flat Rate (Residential Service): Monthly rate $5.25

TULLS BAY COLONY

Metered Rate (Residential Service):

0-3,000 gallons per month, minimum charge	$5.25
Next 12,000 gallons per month, per 1,000 gallons	$1.00
All over 15,000 gallons per month, per 1,000 gallons	$ .90

Flat Rate (Residential Service): Monthly rate $5.25

CONNECTION CHARGES: (No Change)

Colonial Heights (Meadowbrook Drive):	$200.00 per lot
Colonial Heights (Malibu Drive):	$ 10.00 per lot
Royal Acres:	$ 10.00 per lot
Tulls Bay Colony:	$100.00 per lot

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: Twenty (20) days after billing date.

BILLING FREQUENCY: Shall be monthly, for service in arrears.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-201, Sub 16, by Recommended Order of Chairman Deane, dated May 3, 1977.

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5. Tom Baker Express, Inc. Granting Additional Contract Carrier Authority	T-1533, Sub 2	9-19-77
6. Big "R" Delivery Service, Richard Ransom, d/b/a Granting Contract Carrier Permit	T-1772, Sub 1	3-30-77
7. Paul Billings - Granting Contract Carrier Permit	T-1848	3-3-77
8. Commercial Warehouse, Inc. Granting Contract Carrier Authority	T-1663, Sub 1	4-15-77
9. Artis Lee Council - Granting Contract Carrier Permit	T-1867	10-3-77

10.	D & D Company - Granting Operating Authority	T-1851	3-25-77
11.	Dairy Leasing Service, Inc. Granting Contract Carrier Authority	T-1840	1-27-77
12.	J. B. Davis Bulk Hauler Granting Additional Common Carrier Authority	T-1785, Sub 1	10-7-77
13.	N. A. Dunn, Incorporated Recommended Order Granting Authority	T-1835	3-28-77
14.	Eastern Courier, Wayne Stewart, t/a - Granting Authority to Amend Contract Carrier Authority Permit No. P-264	T-1709, Sub 2	1-3-77
15.	Estes Express Lines - Granting Authority	T-676, Sub 6	4-8-77
16.	C. H. Eure Trucking, Inc. Granting Common Carrier Authority	T-1886	11-4-77
17.	Fuel Oil Service Company Granting Contract Carrier Permit	T-1857	5-24-77
18.	G & H Used Car Carrier, Glenn Waters, d/b/a - Granting Authority	T-1858	6-27-77
19.	John Louie Gibson - Granting Additional Contract Carrier Authority	T-1396, Sub 3	8-30-77
20.	Glass Container Transport, Inc. - Granting Contract Carrier Permit	T-1880	10-5-77
21.	Donald Lee Gupton, Cecil Thomas Ausley & James L. Tyler Granting Contract Carrier Permits	T-1843 T-1842 T-1844	1-3-77
22.	Theodore Ralph Ijames Granting Contract Carrier Permit	T-1849	3-4-77
23.	Jackson's Transfer, James Beverly Jackson, Jr., d/b/a Granting Application to Dissolve Partnership	T-535, Sub 7	8-29-77

24.	Loftins, William I. Loftin, Jr. and J. Bryan Loftin, d/b/a Granting Common Carrier Authority	T-1885	11-23-77
25.	Mercer Bros. Trucking Co. Granting Operating Authority	T-1764, Sub 2	7-5-77
26.	Moore's Airport Limousine Service, Inc. - Errata Order	T-1845	3-25-77
27.	Moore's Airport Limousine Service, Inc. - Errata Order	T-1845	4-6-77
28.	Morgan Drive Away, Inc. Granting Operating Authority	T-1069, Sub 3	6-22-77
29.	Elwood Norris - Granting Contract Carrier Permit	T-1856	6-13-77
30.	Rape Grain Company, James Dennis Rape, d/b/a - Granting Contract Carrier Permit	T-1878	9-27-77
31.	Raleigh Delivery Service, Inc. Granting Petition to Amend Contract Carrier Permit	T-1443, Sub 2	9-12-77
32.	Re-Jim, Incorporated - Granting Contract Carrier Permit	T-1884	12-20-77
33.	Riverside Transportation Corporation - Granting Application in Part	T-1866	8-26-77
34.	C. C. Roberts Concrete Construction Co., Inc. Granting Application as Amended	T-1874	7-27-77
35.	Lloyd Rosdahl - Amending Contract Carrier Permit No. P-120	T-1008, Sub 2	7-11-77
36.	Sherman & Boddie, Inc. Granting Contract Carrier Permit	T-1188, Sub 7	4-12-77
37.	R. L. Stevenson Mobile Home Carrier - Granting Amended Application	T-1342, Sub 2	12-20-77
38.	Robert W. Swain - Granting Contract Carrier Permit	T-1872	8-1-77
39.	Gilbert Ray Thompson - Granting Common Carrier Authority	T-1870	6-30-77

40.	James L. Tyler, Cecil Thomas Ausley & Donald Lee Gupton Granting Contract Carrier Permits	T-1844 T-1842 T-1843	1-3-77
41.	Underwood and Weld Company, Inc. - Granting Irregular Route Common Carrier Authority	T-1392, Sub 3	1-19-77
42.	Fred Webb, Inc. - Granting Common Carrier Permit	T-1881	9-27-77
43.	Ruffin White, Jr. - Granting Irregular Route Common Carrier Authority	T-1855	6-21-77
C.	Certificates and Permits Cancelled or Revoked		
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2.	Howard Atkins - Cancelling Permit	T-1189, Sub 1	12-1-77
3.	Howard Atkins - Extending Effective Date of Recommended Order	T-1189, Sub 1	12-12-77
4.	Autry Trucking Company, William Autry, d/b/a - Revoking Operating Authority	T-643, Sub 3	10-26-77
5.	Jeffrey Blackmon - Revoking Operating Authority	T-665, Sub 2	10-26-77
6.	Jeffrey Blackmon - Rescinding Recommended Order Revoking Certificate	T-665, Sub 2	11-10-77
7.	Bowden's Car Transport, John Bernice Bowden, d/b/a Cancelling Authority	T-1827	5-19-77
8.	Brumfield and Reece Mobile Home Service - Revoking Operating Authority	T-1814, Sub 1	10-26-77
9.	Bullard Moving and Storage Revoking Operating Authority	T-844, Sub 3	10-26-77
10.	Bullard Moving and Storage Rescinding Recommended Order Revoking Certificate	T-844, Sub 3	11-4-77

11.	C & C Mobile Home Service, Johnny A. Cates & Ellerson R. Chandler, d/b/a - Cancelling Certificate No. C-1075 & Show Cause Proceeding	T-1824	4-4-77
12.	C & H Mobile Home Movers Revoking Operating Authority	T-1768	10-26-77
13.	C. D. Elks Truck Line Revoking Operating Authority	T-1615, Sub 2	10-28-77
14.	Carolina Mobile Movers, Inc. Revoking Operating Authority	T-1481, Sub 3	10-26-77
15.	Carolina Mobile Movers, Inc. Rescinding Recommended Order Revoking Certificate	T-1481, Sub 3	11-2-77
16.	Charlotte Merchants Delivery, Inc. - Cancelling Permit No. P-129	T-1068, Sub 5	1-17-77
17.	Charlotte Merchants Delivery, Inc. - Vacating Recommended Order to Cancel Permit No. P-129	T-1068, Sub 5	3-9-77
18.	Clem's Mobile Home Repair Service - Revoking Operating Authority	T-1564	10-26-77
19.	W. A. Cummins - Cancelling Permit No. P-247	T-1656, Sub 1	9-26-77
20.	Eastern Refrigerated Transport, Inc. - Cancelling Certificate No. C-996	T-1562, Sub 1	1-17-77
21.	Oliver Edwards - Revoking Operating Authority	T-1558, Sub 1	10-26-77
22.	Ellington Transport, Inc. Cancelling Permit No. P-97	T-1718, Sub 2	4-7-77
23.	Forest Dale Motors, Inc. Revoking Operating Authority	T-1754	10-26-77
24.	Forest Dale Motors, Inc. Rescinding Recommended Order Revoking Certificate	T-1754	11-2-77
25.	Wesley E. Garner - Cancelling Permit No. P-16	T-38, Sub 4	7-25-77
26.	Grantham Transfer - Revoking Operating Authority	T-1645	10-25-77

27.	Alton E. Grimes - Revoking Operating Authority	T-352, Sub 4	10-25-77
28.	Alton E. Grimes - Rescinding Recommended Order Revoking Certificate	T-352, Sub 4	11-9-77
29.	L. J. Keever Moving Service Revoking Operating Authority	T-1547	10-25-77
30.	Leary Bros. Storage Company Revoking Operating Authority	T-525, Sub 2	10-25-77
31.	Leary Bros. Storage Company Rescinding Recommended Order Revoking Certificate	T-525, Sub 2	11-2-77
32.	Ma-Let Postal Service, Inc. Revoking Operating Authority	T-1602, Sub 1	10-28-77
33.	N. C. Coastal Motor Lines, Inc. Cancelling Certificate No. C-943	T-1409, Sub 4	12-6-77
34.	Queen City Moving and Storage Company - Revoking Operating Authority	T-1568, Sub 1	10-28-77
35.	Queen City Moving and Storage Company - Rescinding Recommended Order Revoking Certificate	T-1568, Sub 1	11-16-77
36.	S & R Auto & Truck Service, Inc. - Cancelling Certificate No. C-839	T-1603, Sub 1	5-9-77
37.	S & R Auto & Truck Service, Inc. - Vacating Recommended Order to Cancel Certificate No. C-839	T-1603, Sub 1	5-23-77
38.	Tuckers Mobile Home Dealer Service - Revoking Operating Authority	T-1648, Sub 1	10-31-77
39.	Wainwright Transfer Company Revoking Operating Authority	T-861, Sub 5	10-26-77
40.	Whittenton's Transfer, Silas Whittenton, d/b/a Cancelling Authority	T-555, Sub 5	6-9-77
D.	Change in Name		
1.	AAA - Spruill Moving and Storage, William C. Taylor, Jr.	T-1861	6-27-77

D/B/A - Approving Change in Name

2. Aaction Moving & Storage Co., Spunwind, Inc., d/b/a Approving Change in Name — T-1825, Sub 1 — 3-30-77

3. Freightways, Inc. - Granting Petition to Change Corporate Name from Short Trucking Co., Inc. — T-1741, Sub 2 — 10-27-77

4. Outer Banks Mobile Home Transit, William Henry Carraway, d/b/a Approving Change in Name — T-1834 — 2-23-77

5. Riverside Transportation Co. Inc. - Amending Corporate Name — T-1866 — 9-13-77

6. Ruffin White, Jr. - Amending Certificate No. C-1081 — T-1855 — 8-23-77

7. Taylor Bros. Movers - Approving Application to use Trade Name — T-1868 — 7-25-77

E. Mergers

1. The Mason and Dixon Lines, Incorporated - Approving Merger with General Motor Lines, Inc. — T-1876 — 9-7-77

2. The Mason and Dixon Lines, Incorporated - Staying Order Approving Merger with General Motor Lines, Inc. — T-1876 — 10-17-77

3. Mid-State Oil Company Approving Merger with B & M Transportation Company — T-1869 — 7-11-77

4. Watkins Motor Lines, Inc. Approving Merger with Watkins-Carolina Express, Inc. — T-1888 — 12-6-77

F. Rates

1. Rates-Truck - Order Discontinuing Investigation of Rates & Charges & Commodity Reclassifications & Authorizing Tariff Filing — T-825, Sub 205 — 7-6-77

2. Rates-Truck - Motor Common Carriers - Vacating Order of Suspension & Investigation, — T-825, Sub 210 — 5-10-77

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3.	Rates-Truck - Motor Common Carriers - North Carolina Motor Carriers Association, Inc., Agent Allowing Vacation of Suspension & Tariff Filings to Become Effective & Cancelling of Hearing	T-825, Sub 212	5-2-77
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1.	A & B Mobile Home Movers, Inc., from Allstate Mobile Home Service, Inc.	T-1836	2-24-77
2.	Allen's Moving Service of Fayetteville, Inc. Approving Incorporation	T-890, Sub 2	5-11-77
3.	Allen Realty Company, Inc. from Golden Eagle Homes, Inc.	T-1832	1-17-77
4.	Jack Bartlett Moving and Construction, Jack E. Bartlett, d/b/a, from Coleman Trucking & Seeding Company, Inc.	T-1863	6-13-77
5.	I. W. Bowling, Inc., from W. D. Christian, d/b/a Christian Grain and Feed Company	T-1821, Sub 1	7-7-77
6.	Boyd Wilbur Brafford, Jr., from Boyd Q. Douglas, t/a Dreamland Mobile Home Park	T-1850	3-22-77
7.	Brock's Mobile Home, George David Brock, d/b/a, from Edmond Willis Clemmons, d/b/a Clem's Mobile Home Repair Service	T-1862	8-3-77
8.	Brown's Moving & Storage Company, Dallas Walton Brown, d/b/a, from Lange Lassie Meeks, d/b/a Meeks Moving Service	T-1860	6-13-77
9.	William Henry Carraway from Jason V. Rice	T-1834	2-1-77

10.	Cauthen Gin & Bag Co., from Carolina Storage Corporation	T-343, Sub 7	6-13-77
11.	Lewis C. Coats Trailer Moving Co., Lewis C. Coats, d/b/a, from S S & J Enterprises, Ltd.	T-1633, Sub 2	4-13-77
12.	Cornett Mobile Home Movers, Barman Cornett, Jr., d/b/a, from Jack Cornett, d/b/a, Cornett Mobile Home Movers	T-1767, Sub 1	10-10-77
13.	Cromartie Transport Company from Luther M. Cromartie to Carl B. Dean	T-245, Sub 13	2-3-77
14.	Donald Evans Mobile Home Movers, Inc., from Daniel Charles Brazille	T-1854	5-4-77
15.	Donald Evans Mobile Home Movers - Errata Order	T-1854	5-17-77
16.	Eastern Courier Corporation Order Approving Incorporation & Transfer from Wayne Stewart, t/a Eastern Courier	T-1709, Sub 3	9-6-77
17.	Ezzell Trucking, Inc., from Tri-County Transport, Inc.	T-1536, Sub 2	8-1-77
18.	David Charles Humphrey from Fisher & Brother/Carolina, Inc.	T-1879	10-12-77
19.	Johnny's Mobile Home Service, Johnny Arthur Conard, d/b/a, from Richard Hilton Freck, d/b/a Freck Mobile Home Service	T-1877	8-24-77
20.	Jones Mobile Home Service, Inc., from the Estate of C. W. Currin	T-1575, Sub 3	8-1-77
21.	M & M Movers, Richard C. Hall, d/b/a, from Tripp Enterprises, Inc.	T-1750, Sub 1	9-16-77
22.	Milovitz Mobile Home Moving, William Ray Milovitz, d/b/a, from Paul Lee Bean, d/b/a Grandpap Mobile Home Service	T-1853	4-13-77
23.	Piedmont Fuel & Distributing Co., Inc., from GTR, Inc.	T-1062, Sub 5	8-1-77

24.	Robertson Truck Line, Inc., from C. D. Elks, d/b/a C. D. Elks Truck Line	T-1859	8-1-77
25.	Sandhills Bonded Warehouse, Inc., from Ostrom Enterprises, Inc.	T-1852	4-13-77
26.	Sherman & Boddie, Inc., from Glosson Motor Lines, Inc. (Bankrupt)	T-1188, Sub 8	10-31-77
27.	Shippers Freight Lines, Inc., from Akers Motor Lines, Incorporated	T-1847	2-3-77
28.	Short Trucking Co., Inc., from Short Enterprises, Inc.	T-1741, Sub 1	6-13-77
29.	Super Trans, Inc., from Pilot Freight Carriers, Inc.	T-1882	12-19-77
30.	Frank Sutton Contract Carrier, Francis Steele Sutton, d/b/a, from Ray Holmes, d/b/a Ray Holmes Contract Carrier	T-1833	1-3-77
31.	Taylor Bros. Company from Carolina Storage Corporation	T-1868	6-30-77
32.	Taylor Moving & Storage, William C. Taylor, d/b/a, from Jessie J. Spruill	T-1861	6-13-77
33.	Waccamaw Transport, Inc. Approving Incorporation	T-259, Sub 7	12-19-77
34.	Walker Transfer, Inc. Approving Incorporation	T-707, Sub 1	11-16-77
35.	West's Durham Transfer & Storage, Inc., from Clyde Triplett	T-1865	5-16-77
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1.	C & S Motor Express, Inc. Approving Sale & Transfer of Capital Stock	T-675, Sub 4	1-3-77
2.	Chemical Leaman Corporation Approving Stock Transfer	T-663, Sub 14	7-19-77
3.	Farrar Transfer & Storage Warehouse, Inc. - Approving Sale of Stock	T-910, Sub 2	5-25-77

4.	Financial Courier Corporation Approving Change of Control	T-1462, Sub 4	6-24-77
5.	Hill's Truck Line, Inc. Approving Change of Control through Stock Transfer	T-140, Sub 9	2-8-77
6.	Bruce Johnson Trucking Company, Inc. - Sale & Transfer of Stock & Change of Control	T-1652, Sub 2	10-14-77
7.	Overcash Transfer, Inc. Approving Transfer of Stock	T-110, Sub 5	1-3-77
I.	Miscellaneous		
1.	DeHart Motor Lines, Inc. Order Authorizing the Granting of a First Lien on Operating Rights	T-1569, Sub 3	3-14-77
2.	H & O Labor Account, William G. Olive, d/b/a - Dissolution of Partnership	T-1774	10-10-77
3.	Rucker Transfer & Storage Co., Inc. - Approving Lease of Authority	T-1887	12-6-77
4.	Tidewater Transit Co., Inc. Approving Plan of Recapitalization	T-380, Sub 17	11-9-77
VI.	RAILROADS		
A.	Agency Stations		
1.	High Point, Thomasville & Denton Railroad Company Thomasville - Abandon Freight Station	R-24, Sub 3	5-17-77
2.	Norfolk Southern Railway Company - Knightdale - Retire & Dismantle Depot Building	R-4, Sub 101	10-4-77
3.	Seaboard Coast Line Railroad Company and Southern Railway Company - Selma - Abandon & Remove Jointly Owned Passenger Station & Donate Station Building to the Town of Selma	R-71, Sub 45	6-9-77
4.	Seaboard Coast Line Railroad Company - Spencer Mountain - Discontinue Non-Agency Station	R-71, Sub 65	3-17-77

	& at Ranlo to Abandon Terminal 1,940 Feet of its Track No. 29		
5.	Seaboard Coast Line Railroad Company - Cofield - Discontinue Agency Station & Dispose of Station Building	R-71, Sub 68	6-6-77
6.	Southern Railway Company Reidsville & Concord Discontinue Passenger Service	R-29, Sub 273	9-28-77
B.	Mobile Agency Concept		
1.	Norfolk Southern Railway Company - Permanent Mobile Agency Concept in Wilson Area	R-4, Sub 87	8-25-77
2.	Norfolk Southern Railway Company - Permanent Mobile Agency Concept in Varina Area	R-4, Sub 94	5-4-77
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4.	Seaboard Coast Line Railroad Company - Modify Mobile Agency in Charlotte on Six Months' Trial	R-71, Sub 42 R-71, Sub 48	8-23-77
5.	Seaboard Coast Line Railroad Company - Modify Mobile Agency in Wilson #1	R-71, Sub 57	8-9-77
6.	Seaboard Coast Line Railroad Company - Permanent Mobile Agency Concepts in Raleigh & Hamlet	R-71, Sub 60	11-2-77
7.	Seaboard Coast Line Railroad Company - Second Mobile Agency Concept in Hamlet on Six Months' Trial	R-71, Sub 71	10-5-77
8.	Seaboard Coast Line Railroad Company - Modify Fayetteville No. 2 Mobile Agency on Six Months' Trial	R-71, Sub 72	11-2-77
9.	Southern Railway Company Permanent Expansion of Mobile Agency in Bryson City	R-29, Sub 232	5-13-77
10.	Southern Railway Company Permanent Mobile Agency in Goldsboro Area	R-29, Sub 253	2-15-77

11.	Southern Railway Company Permanent Mobile Agency in Elkin Area	R-29, Sub 254	2-15-77
C.	Open and Prepay Tariffs		
1.	Norfolk Southern Railway Company - Remove Stations at Eden (Spray, Leaksville & Draper) from Open & Prepay Tariff & Build New Station to be called Eden	R-4, Sub 97	6-30-77
2.	Norfolk Southern Railway Company & Southern Railway Company - Remove Station at Cumnock from Open & Prepay Tariff	R-4, Sub 100 R-29, Sub 274	9-28-77
3.	Seaboard Coast Line Railroad Company - Remove Station at Armstrong from Open & Prepay Tariff	R-71, Sub 62	2-11-77
4.	Southern Railway Company Remove Stations at Woodfin, New Bridge, Elk Mountain, Emma, Boswell, & Sulphur Springs from Open & Prepay Tariff	R-29, Sub 267	5-9-77
5.	Southern Railway Company & Norfolk Southern Railway Company - Remove Station at Cumnock from Open & Prepay Tariff	R-29, Sub 274 R-4, Sub 100	9-28-77
D.	Team Tracks and Side Tracks		
1.	High Point, Thomasville & Denton Railroad Company Abandon Industrial Track in Jacobs Place in High Point	R-24, Sub 2	12-8-77
2.	Norfolk Southern Railway Company - Remove Side Track at Hertford	R-4, Sub 98	7-12-77
3.	Norfolk Southern Railway Company - Remove Side Track at Raleigh	R-4, Sub 99	7-27-77
4.	Seaboard Coast Line Railroad Company - Retire Team Track at Pactolus	R-71, Sub 66	7-12-77

5.	Seaboard Coast Line Railroad Company - Retire Team Track at Kellum	R-71, Sub 67	7-12-77
6.	Seaboard Coast Line Railroad Company - Retire Team Track & Discontinue Mobile Agency Station at Wise	R-71, Sub 69	7-27-77
7.	Seaboard Coast Line Railroad Company - Retire Team Track & Discontinue Mobile Agency Station at Thelma	R-71, Sub 70	9-16-77
8.	Southern Railway Company Remove Side Track No. 28-11 at Winston-Salem	R-29, Sub 265	3-8-77
9.	Southern Railway Company Retire & Remove Side Track No. 100-11 at North Wilkesboro	R-29, Sub 268	5-17-77
10.	Southern Railway Company Remove Side Tracks Nos. 24-5 & 24-7 at Graham	R-29, Sub 269	6-3-77
11.	Southern Railway Company Retire & Remove Side Track at Cooleemee	R-29, Sub 270	11-4-77
12.	Southern Railway Company Remove Side Track No. 15-2 at Gibsonville	R-29, Sub 271	7-7-77
13.	Southern Railway Company Remove Side Track at Raleigh	R-29, Sub 272	7-27-77
14.	Southern Railway Company Remove Side Track No. 318-2 at Lexington	R-29, Sub 277	12-19-77
B.	Miscellaneous		
1.	Seaboard Coast Line Railroad Company - Order Granting Authority to Make Reparation Refund & to Waive Undercharges for Account of Farmers Chemical Association, Inc.	R-71, Sub 63	1-26-77
2.	Seaboard Coast Line Railroad Company - Abandon Terminal 10,738 feet of its Red Springs Subdivision	R-71, Sub 64	2-22-77
3.	Southern Railway Company Order Approving Petition to	R-29, Sub 266	4-13-77

	Relocate the Burlington, North Carolina, Agency Station to the Present Site of the Graham, North Carolina, Agency Station; to Renovate the Freight Depot Building at Graham and Rename the Graham Agency Station to be Called Burlington - Graham; and to Dismantle, Remove or Otherwise Dispose of the Freight and Passenger Depot Buildings at Burlington and to Remove Certain Public and Industry Tracks at Burlington, North Carolina		
4.	Southern Railway Company Remove Present & Construct New Freight Depot on Site at Spindale	R-29, Sub 275	11-29-77
VII.	TELEPHONE		
A.	Complaints		
1.	Carolina Telephone & Telegraph Company - Order Prohibiting Change in Telephone Directory Listings for Farmville, Snow Hill, Ayden, Bethel, & Fountain for 1977 Directory	P-7, Sub 620	6-10-77
2.	Central Telephone Company Complaint of Mrs. Burlie Long Recommended Order Denying Complaint	P-10, Sub 363	6-30-77
3.	Citizens Telephone Company Complaint of David Vickery, Sr., & Mrs. David Vickery, Sr. Recommended Order Requiring Telephone Service to be Provided	P-12, Sub 68	5-24-77
4.	Citizens Telephone Company Complaint of Pisgah Farms, Inc., & David Vickery, Sr., et ux - Closing Docket & Terminating Proceeding	P-12, Sub 68	11-9-77
5.	Citizens Telephone Company Complaint of Pisgah Forest Farms, Inc., & David Vickery, Sr., et ux - Dismissing Complaint & Closing Docket	P-12, Sub 70	11-9-77

6. Southern Bell Telephone and Telegraph Company - Complaint of Telerent Leasing Corporation Commtel, Inc., & Carolina Interconnect Telephone Association - Recommended Order Dismissing Complaint	P-55, Sub 754	6-30-77
B. Radio Common Carriers		
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2. Patterson Anserphone Communications Enterprises, Inc. Granting Authority to Transfer Ownership of Petitioner to Hilda Sowers Patterson	P-119, Sub 1	10-31-77
3. Radio Paging Service, Inc. Order Approving Change of Name from Radio Paging & Telephone Answering Service of Charlotte, North Carolina, Inc.	P-102, Sub 3	6-28-77
4. Rockfish Radio Telephone Services, Inc., R. Harvey Squires, d/b/a - Granting Transfer of Ownership from Lynwood A. Williams, d/b/a Rockfish Radio Telephone Services	P-117, Sub 2	12-7-77
C. Securities and Borrowed Funds		
1. Barnardsville Telephone Company Recommended Order Granting Authority to Borrow Funds	P-75, Sub 19	5-18-77
2. Central Telephone Company Order Granting Authority to Issue & Sell Bonds, Series AA	P-10, Sub 371	7-20-77
3. Central Telephone Company Order Granting Authority to Issue & Sell Bonds, Series BB	P-10, Sub 374	12-16-77
4. Concord Telephone Company Order Granting Authority to Issue & Sell Shares of Common Stock under Employee Stock Ownership Plan	P-16, Sub 132	9-19-77
5. Continental Telephone Company of Virginia - Order Granting	P-28, Sub 24	9-27-77

	Authority to Sell First Mortgage Bonds		
6.	Ellerbe Telephone Company Order Granting Authority to Borrow Funds	P-21, Sub 32	4-13-77
7.	General Telephone Company Order Granting Authority to Issue & Sell First Mortgage Bonds	P-19, Sub 167	5-5-77
8.	Norfolk Carolina Telephone Company - Order Granting Authority to Issue and Sell First Mortgage Bonds & Common Stock	P-40, Sub 145	5-11-77
9.	North State Telephone Company Order Granting Authority to Issue & Sell Preferred Stock & 30-Year Sinking Fund Notes	P-42, Sub 88	3-3-77
10.	Randolph Telephone Company, Inc. - Order Granting Authority to Declare Stock Dividend	P-61, Sub 57	3-3-77
11.	Westco Telephone Company Order Granting Authority to Borrow $8,500 from the Federal Financing Bank	P-78, Sub 43	12-14-77
12.	Western Carolina Telephone Company - Order Granting Authority to Issue & Sell Securities	P-58, Sub 107	10-28-77
D.	Miscellaneous		
1.	Carolina Telephone & Telegraph Company - Order Approving Tariff on Less than Statutory Notice	P-7, Sub 619	4-5-77
2.	Carolina Telephone & Telegraph Company - Order Approving Maps on Less than Statutory Notice	P-7, Sub 621	5-26-77
3.	Central Telephone Company Order Rescinding Requirement that Interconnection be on an Interim Basis	P-10, Sub 334	10-12-77
4.	Central Telephone Company Order Approving Tariff on Less than Statutory Notice	P-10, Sub 370	7-5-77

5.	General Telephone Company of the Southeast & Southern Bell Telephone & Telegraph Company Order Approving Maps on Less than Statutory Notice	P-19, Sub 168 P-55, Sub 766	6-2-77
6.	Mid-Carolina Telephone Company, North Carolina Telephone Company, The Old Town Telephone System, Inc. & Mid-Continent Telephone Corporation - Order Granting Authority to Merge North Carolina Telephone Company & The Old Town Telephone System, Inc., into Mid-Carolina Telephone Company	P-118, Sub 9	8-3-77
7.	Southern Bell Telephone & Telegraph Company & General Telephone Company - Order Approving Maps on Less than Statutory Notice	P-55, Sub 766 P-19, Sub 168	6-2-77
8.	Southern Bell Telephone & Telegraph Company - Order Rescinding Requirement that Interconnection be on an Interim Basis	P-55, Sub 719 P-55, Sub 727	10-11-77

VIII. WATER AND SEWER

A. Cancellation of Certificates

1.	Gene Aycock Water Service Order Cancelling Franchise for Service in Royal Oaks Subdivision, Cabarrus County	W-8, Sub 8	10-19-77
2.	Newton Gentry - Order Cancelling Franchise	W-221	11-2-77
3.	Herbert Johnson - Order Cancelling Franchise	W-583	9-20-77
4.	D. C. Linn - Order Cancelling Franchise	W-144, Sub 5	2-9-77
5.	McDonald Realty Company Order Cancelling Franchise	W-98, Sub 3	3-3-77
6.	Dallas W. Medlin Order Cancelling Franchise	W-573	10-19-77
7.	Waterco, Inc. - Order Cancelling Franchise for Service in Sardis Hills Subdivision, Mecklenburg County	W-80, Sub 21	2-9-77

B. Franchise and Rates

1. All Star Mobile Home Park, John Buffaloe, d/b/a Recommended Order Granting Franchise & Approving Rates	W-628	3-21-77
2. Beachwood Distributing Company Inc. - Recommended Order Granting Franchise & Approving Rates	W-622	1-18-77
3. W. Dillard Billingsley & John T. Billingsley Recommended Order Granting Temporary Operating Authority & Approving Rates	W-632	4-4-77
4. Bonaparte's Retreat Water System, Ocean Side Corporation, d/b/a - Recommended Order Granting Temporary Operating Authority & Approving Rates	W-636	6-30-77
5. Roy A. Davis & Virginia B. Davis - Order Granting Franchise	W-631	10-6-77
6. Edgebrook Development Company Recommended Order Granting Temporary Operating Authority & Approving Rates	W-638	8-3-77
7. Forest Acres Water Company Recommended Order Granting Franchise & Approving Rates	W-626	2-23-77
8. Gaither Water Company, Sam C. Gaither, d/b/a - Recommended Order Granting Temporary Operating Authority & Approving Rates	W-621	3-28-77
9. M. R. Godley - Recommended Order Granting Franchise & Approving Rates	W-652	12-29-77
10. Heater Utilities, Inc. - Order Granting Temporary Operating Authority	W-274, Sub 21	11-29-77
11. Hidden Valley Estates, Sanford E. Ross, t/a - Recommended Order Granting Temporary Operating Authority & Approving Rates	W-618, Sub 1	1-18-77

12.	A. Gordon Jewell - Recommended Order Granting Franchise & Approving Rates	W-651	11-3-77
13.	M & S Corporation - Recommended Order Granting Temporary Franchise & Approving Rates	W-625	1-3-77
14.	M & S Corporation - Order Granting Franchise	W-625	6-21-77
15.	Masonboro Utilities, Inc. Recommended Order Granting Temporary Operating Authority & Approving Rates	W-623	1-11-77
16.	T. L. Matlock, Jr. Recommended Order Granting Franchise & Approving Rates	W-624	1-11-77
17.	William E. McRee - Recommended Order Granting Temporary Operating Authority & Approving Rates	W-562	4-29-77
18.	Mercer Environmental Corporation - Order Granting Franchise & Approving Rates	W-198, Sub 10	4-13-77
19.	Troy Crouch - Order Granting Certificate of Public Convenience & Necessity	W-576	1-11-77
20.	Gile E. Mullis Well Drilling Recommended Order Granting Temporary Operating Authority & Approving Rates	W-547, Sub 1	3-2-77
21.	P & B Waterworks, Douglas Y. Perry & Prentiss Baker, d/b/a Recommended Order Granting Franchise & Approving Rates	W-627	2-9-77
22.	Rugby South, Inc. - Recommended Order Granting Franchise & Approving Rates	W-460	8-30-77
23.	Setzer Brothers, Inc. Recommended Order Granting Franchise & Approving Rates	W-360, Sub 1	6-30-77
24.	Sheffield Community Water System, J. R. Finger & Company, Inc. - Recommended Order Granting Franchise & Approving Rates	W-644	9-6-77

25.	Skyland Drive Water System, Witten Supply Co., Inc., d/b/a Order Granting Temporary Operating Authority	W-642	6-8-77
26.	Spring Water Company, Inc. Order Granting Franchise & Approving Rates	W-337, Sub 3	10-31-77
27.	Springs Mills, Inc. Recommended Order Granting Temporary Operating Authority & Approving Rates	W-650	11-17-77
28.	S. P. Stanley, Jr. Recommended Order Granting Franchise & Approving Rates	W-639	9-22-77
29.	Surry Water Company, Inc. Order Granting Franchise & Approving Rates	W-314, Sub 16	1-25-77
30.	Surry Water Company, Inc. Order Granting Franchise & Approving Rates	W-314, Sub 17	9-20-77
31.	Wilson Water Service, J. N. Wilson, d/b/a - Recommended Order Granting Temporary Operating Authority & Approving Rates	W-554, Sub 1	9-22-77
32.	Woodstone Utilities, Inc. Order Granting Franchise & Approving Interim Rates	W-629	2-1-77
33.	Woodvalley Utilities, Inc. Order Granting Franchise & Approving Rates	W-645	9-20-77
C.	Rates		
1.	Cregg Bess, Inc. - Recommended Order Approving Rate Increase	W-281, Sub 3	4-20-77
2.	Bethlehem Utilities, Inc. Recommended Order Granting Rate Increase	W-259, Sub 2	4-4-77
3.	Buffalo Meadows Utility Recommended Order Granting Rate Increase	W-312, Sub 2	3-9-77
4.	Buffalo Meadows Utility Order Approving Increased Tap-on Fee	W-312, Sub 2	4-13-77

5.	Carolina Pines Construction Company, Inc. - Recommended Order Granting Rate Increase	W-341, Sub 2	11-29-77
6.	Colony Water Company, Inc. Recommended Order Granting Rate Increase	W-230, Sub 1	12-9-77
7.	Dillard Grading Company Recommended Order Granting Rate Increase	W-340, Sub 3	4-29-77
8.	Duke Power Company Recommended Order Approving Increase in Rates & Charges	W-94, Sub 6	11-7-77
9.	Goose Creek Utility Company Recommended Order Approving Increased Rates & Requiring Improvements	W-369, Sub 1	3-28-77
10.	H & A Water Service, Inc. Order Amending Tariff	W-510, Sub 2	6-20-77
11.	Helms Water Company, Eric T. Helms, d/b/a - Order Approving Increased Rates	W-592, Sub 1	5-11-77
12.	Hickory Hills Service Co., Inc. Order Approving Installation of Meters, Metered Rates & Requiring Public Notice	W-460, Sub 3	3-28-77
13.	Land Harbor Utility Company Order Approving Commercial Tariff	W-598, Sub 2	1-12-77
14.	Mercer Environmental Corporation - Order Approving Rates & Requiring Service Report	W-198, Sub 11	11-7-77
15.	Morehead Water System, Sides & Hudgens, d/b/a - Recommended Order Requiring Meters	W-525	6-14-77
16.	Morehead Water System, Sides & Hudgens, d/b/a - Order Reversing Recommended Order	W-525	11-2-77
17.	Norwood Beach Water System, Bobby E. Moss, d/b/a Recommended Order Approving Rates	W-498, Sub 1	12-29-77
18.	O/A Utility, Inc. - Order Authorizing Tariff Amendment	W-392, Sub 2	2-10-77

19.	Oehler Water Company - Order Approving Tariff	W-440, Sub 2	10-13-77
20.	Piedmont Estates Water System Order Approving Tariff & Requiring Notice	W-581, Sub 1	2-9-77
21.	Lucius L. Ratchford Recommended Order Approving Rates	W-421, Sub 1	12-14-77
22.	Ridgecrest Baptist Conference Center - Order Approving Increased Rates	W-71, Sub 4	7-13-77
23.	Scientific Water & Sewage Corporation - Recommended Order	W-176, Sub 8	6-6-77
24.	Scientific Water & Sewage Corporation - Order Amending Effective Date of Increase	W-176, Sub 8	7-8-77
25.	Valleydale Water Company, Lewis E. Watford, d/b/a - Recommended Order Granting Rate Increase	W-272, Sub 1	3-31-77
26.	Whispering Pines, Inc. Recommended Order Increasing Rates	W-150, Sub 2	6-7-77
27.	Whispering Pines, Inc. - Order Authorizing Rates to Become Effective	W-150, Sub 2	12-2-77
D.	Transfers		
1.	Brookhaven, Inc. - Recommended Order Approving Transfer	W-119, Sub 6	5-13-77
2.	Roy A. Davis & Virginia B. Davis - Recommended Order Authorizing Transfer from Bailey Utilities, Inc., Granting Temporary Operating Authority & Approving Rates	W-631	3-30-77
3.	John L. Harris - Order Allowing Transfer from Mildred T. Fisher & Approving Rates	W-634	6-21-77
4.	Grace B. Killian - Order Allowing Transfer from Killian Brothers Water System, Lester M. Killian & Joe C. Killian, d/b/a, Granting Franchise & Approving Rates	W-298, Sub 1	10-31-77

5.	Lakeside Estates Water Company, Raleigh P. & Donna W. LaRoche, Jr., d/b/a - Recommended Order Approving Transfer from John W. Winters	W-359, Sub 1	11-23-77
6.	Letco, Inc., from Hickory Hills Service Co., Inc. - Order Cancelling Previous Order & Closing Docket	W-599	3-29-77
7.	Matthews Utilities, Inc. Order Authorizing Transfer to City of Charlotte, Cancelling Franchise & Requiring Notice	W-219, Sub 2	2-9-77
8.	Town of Minnesott Beach Recommended Order Approving the Acquisition of Minnesott Beach Water System by the Town of Minnesott Beach	W-443, Sub 2	11-3-77
9.	Harrisburg Water Association, Inc. - Order Authorizing Transfer from Sides & Hudgens, a Partnership T/A Morehead Road Water System	W-653	12-15-77
10.	Oakdale Water System Transferring Ownership from M. H. Matthis to Cora Jane Lovan	W-647	6-20-77
11.	Ruff Water Company Recommended Order Allowing Transfer from James D. Rhyne, d/b/a Rhyne Realty & Construction Co., Granting Temporary Operating Authority & Approving Rates.	W-435, Sub 1	3-14-77
12.	Sanitary Utilities, Inc. Order Approving Transfer from S & H Utilities, Inc. & Establishing Interim Rates	W-284, Sub 3	3-8-77
13.	Walnut Creek Utility Company, Inc. - Order Approving Transfer from Village of Walnut Creek	W-637	5-19-77
14.	Waterco, Inc. - Order Authorizing Transfer to Davie County & Requiring Notice	W-80, Sub 22	11-22-77

B. Miscellaneous

1.	Catawba Water Supply, A. Roy Morrison, d/b/a - Order Authorizing Abandonment & Requiring Notice	W-179, Sub 6	12-15-77
2.	Scientific Water & Sewage Corporation - Supplemental Order Granting Authority to Issue Bank Note	W-176, Sub 8	8-8-77
3.	Super Dollar Stores, Inc., v. Greshams Lake Industrial Park, TIM, INC. & NCNB Mortgage Corporation - Order Dismissing Complaint & Closing Docket	W-541, Sub 1	3-10-77