SIXTY-EIGHTH REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1978, through December 31, 1978

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

Sandra J. Webster*
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 December 1, 1978, replacing Katherine M. Peele who retired on November 30, 1978.

LETTER OF TRANSMITTAL

December 31, 1978

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, 1978, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1978, and ending December 31, 1978.

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

Sandra J. Webster, Chief Clerk

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DOCKET NO. M-100, SUB 28
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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Natural Gas Utility Seasonal) ORDER MODIFYING RULES R12-4
Customer Deposit Requirements) AND R12-10

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on March 28, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Edward B. Hipp, Sarah Lindsay Tate, Robert Fischbach, Leigh H. Hammond, and Ben E. Roney

APPEARANCES:

For the Respondents:

T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, 1400 Wachovia Building, Greensboro, North Carolina 27402
For: Pennsylvania and Southern Gas Company and United Cities Gas Company

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

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.

For the Using and Consuming Public:

Robert F. Page, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On 10 November 1977 the Public Staff - North Carolina Utilities Commission filed a Motion in the above docket seeking temporary suspension of Commission Rule R12-10(c) and that portion of Rule R12-4(a) which applies to seasonal gas service to residental customers. Responses opposing the Motion were filed on 15 and 16 November 1977 by Public Service Company of North Carolina, Inc., and Piedmont Natural Gas Company, Inc., respectively.

By order issued 2 December 1977, the Commission set for hearing on 28 March 1978 its Rules R12-10(c) and R12-4(a), the Motion of the Public Staff for temporary suspensions thereof, and the Responses to the Motion, and established an interim procedure authorizing the gas utilities to waive or modify the foregoing rules, on a case by case basis, to prevent hardship to residential customers who were unable to make the deposits provided in said rules. The order further required each gas utility to file with the Commission on or before 15 December 1977 a schedule of the numbers of residential customers or applicants for residential heating service, by principal geographic area, who had been denied natural gas for failure to make a deposit under said rules and the action or relief afforded on a case by case basis. The utilities' responses may be summarized as follows: Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, no record of any customer or potential customer denied service for failure to make deposit; Public Service Company of North Carolina, Inc., no record showing whether customers or applicants had been denied natural gas service for failure to make a deposit; Piedmont Natural Gas Company, Inc., no records to determine number of customers or applicants for residential heating service who had been denied natural gas for failure to make deposit; United Cities Gas Company, no applicants for residential heating service denied service for failure to make deposit; North Carolina Natural Gas Corporation, no customer or applicant for residential heating service denied service for failure to make deposit.

The matter came on for hearing as scheduled at which time the Commission received testimony and exhibits of the following witnesses: Calvin B. Wells, Senior Vice President, North Carolina Natural Gas Corporation; J. Craig Stevens, Director, Consumer Services Division, Public Staff - North Carolina Utilities Commission; E.L. Flanagan, Jr., Vice President and Treasurer, Public Service Company of North Carolina, Inc.; Bobby E. Dunn, Office Manager, Charlotte District, Piedmont Natural Gas Company, Inc. Upon completion of the evidence, the Commission heard the arguments of counsel.

Based on the foregoing, and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. Commission Rule R12-10, Disconnection of residential customer's natural gas or electrical service, was adopted by order in this docket issued 17 November 1975, as corrected 18 November 1975.

2. Section (c) of Rule R12-10 provides that "customers from whom deposits are required under ... Rules R12-2 or R12-3 and who receive their largest bills seasonally (such as customers who use natural gas or electricity for heating) may be considered seasonal customers in determining the

amount of deposit under Rule R12-4." Section (c) further provides that deposits collectible from such customers may not exceed one-half of the estimate charge for service for the season involved.

3. Section (f) of Rule R12-10 prescribes separate billing, delinquency, and disconnect procedures for customers classified as "credit good" and "credit not good." Customers with "credit good" may receive 121 days of service prior to being disconnected for nonpayment; customers with "credit not good" may receive 91 days of service.

4. Within the framework of the above rules, it is possible for a natural gas customer to accumulate an arrears of several hundred dollars during the heating season, to have service disconnected, and then to be required to pay the arrears plus a substantial deposit in order to have gas service restored.

5. Unpaid and uncollectible accounts represent a burden to the customer and a business risk to the gas utility.

6. Reducing the amount of the deposit which may be required of seasonal customers pursuant to Rules R12-4(a) and R12-10(c) will help to alleviate the burden on the customer but will increase the risk to the utility.

7. Shortening the length of time during which a customer may remain delinquent before the disconnection will tend to offset any increased risk to the utility.

8. Classification of customers as "credit good" or "credit not good" has led to misunderstanding and ill will between the gas utilities and their customers.

Whereupon, the Commission reaches the following

CONCLUSIONS

1. The amount of the deposit which a natural gas utility may require of a seasonal customer should be reduced from one-half to one-third of the estimated charge for service involved.

2. The billing and disconnect procedures followed by the natural gas utilities pursuant to Rule R12-10 should be revised so as to prescribe uniform treatment of all customers by eliminating the "credit good/credit not good" distinction and reducing the delinquency period before disconnection to 76 days.

3. Rules R12-4 and R12-10 should be further revised so as to afford the gas utilities reasonable discretion in waiving or extending deposit requirements and disconnect procedures.

4. The rules revisions adopted by this order should be applicable only to the gas utilities at this time, but a further proceeding should be conducted to consider making similar revisions applicable to electric utilities as well.

IT IS, THEREFORE, ORDERED as follows:

1. That, with respect to natural gas utilities in North Carolina, Commission Rules R12-4 and R12-10 be, and are hereby, revised as set forth in Exhibit I attached hereto.

2. That each gas utility file tariffs in accordance with said revised rules.

3. That a further proceeding in this docket be, and is hereby, scheduled for Tuesday, 28 November 1978, at 9:30 a.m., in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, to consider making the above or similar rule revisions applicable to all electric utilities subject to the jurisdiction of this Commission.

4. That Carolina Power & Light Company, Duke Power Company, Virginia Electric and Power Company, and Nantahala Power and Light Company be, and are hereby, made parties to such further proceeding.

5. That a copy of this order be sent to the above-named electric utilities with opportunity to file comments with respect to Exhibit I within 30 days of the issuance of this order.

6. That the above-named electric utilities cause to be published the Notice of Hearing attached hereto as Exhibit II in newspapers having general circulation in their service areas at least once a week for two consecutive weeks at least 30 days prior to the hearing on 28 November 1978.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

EXHIBIT I

DOCKET NO. M-100, SUB 28
DOCKET NO. M-100, SUB 61

Rule R12-4. Deposit; amount; receipt; interest. - (a) No natural gas utility shall require a cash deposit to establish or reestablish service in an amount in excess of two-twelfths of the estimated charge for the service for the ensuing twelve months; and, in the case of seasonal service, in an amount in excess of ~~one-half~~ one-third of the

estimated charge for the service for the season involved. Each utility, upon request, shall furnish a copy of these rates to the applicant for service or customer from whom a deposit is required, and such copy shall contain the name, address, and telephone number of the Commission.

[Add:]

(d) Nothing in this rule shall preclude a natural gas utility from exercising reasonable discretion in waiving or extending the deposit requirement to prevent undue hardship to an applicant or customer.

Rule R12-10. Disconnection of residential customer's natural gas or electric service. - (a) The date after which the bill is due, or the past due after date, shall be disclosed in the bill and shall not be less than twenty-five (25) days after the billing date. Payment within this twenty-five day period will either maintain or count toward establishment of the customer's credit with the utility.

(b) For purposes of this rule, payment shall be defined as delivery of the amount due to a company business office during regular business hours by 5:00 P.M. on the twenty-fifth (25th) day, unless such day is a Saturday, Sunday, or legal holiday in which event the last day for payment runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(c) Those natural gas customers from whom deposits are required under the provisions of Commission Rules R12-2 or R12-3 and who receive their largest bills seasonally (such as customers who use natural gas or electricity for heating) may be considered seasonal customers in determining the amount of deposit under Rule R12-4. The deposits collectible from such customers shall not exceed one-third of the estimated charge for service for the season involved. For purposes of this provision the heating season shall be the calendar months October through March.

(d) Each electric and gas utility shall file tariffs with the Commission to impose charges not to exceed five dollars ($5.00) for checks tendered on a customer's account and returned for insufficient funds. This charge shall apply regardless of when the check is tendered.

(e) Each gas and electric utility, through its meter reader or local office, is authorized to collect payment by cash or check for bills past due and in arrears, and for current bills once the meter reader has left the local office with a list of customers whose service is to be disconnected, unless the day on which the meter reader has left the local office with such list is prior to the third day preceding

the past due date of the current bill of any customer whose service is to be disconnected, in which case the utility is authorized only to collect payment for bills past due and in arrears.

"Current bill" is defined as a bill rendered but not past due. "Bill in arrears" is defined as a bill rendered and past due.

(f) Each gas ~~[an electric]~~ utility operating under the jurisdiction of the North Carolina Utilities Commission shall ~~[immediately]~~ revise~~[, where necessary,]~~ its billing procedures to conform to the following schedule~~[s]~~ with respect to all customers.

Day	Standard Procedure
1	Service begins
30	Meter Read
35	Bill mailed
55	Reminder notice mailed
60	Meter read for second month's service
65	Bill mailed, showing charge for second month and arrears separately; if arrears is shown on bill, notice mailed stating: "Arrears must be paid within 10 days after billing date to avoid disconnection of service. CONTACT BUSINESS OFFICE IMMEDIATELY TO DISCUSS CREDIT ARRANGEMENTS IF FULL PAYMENT IS NOT POSSIBLE. NO OTHER NOTICE WILL BE MAILED."
75	Review of accounts to determine whether customer has taken necessary action to avoid disconnection. Supervisory approval given to final disconnection orders.
76	Field representative visits home to collect arrears or terminate service. Customer has immediate recourse to local office for reconnect action.

~~[(g) delete]~~

(g) No disconnects will be made prior to their being personally reviewed and ordered by a supervisor.

~~[(i) delete]~~

~~[(j) delete]~~

~~[(k) delete]~~

*NOTE: For Exhibit II, see official Order in the Office of the Chief Clerk.

DOCKET NO. M-100, SUB 28
DOCKET NO. M-100, SUB 61

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Natural Gas Utility Seasonal Customer Deposit Requirements) ORDER OF CLARIFICATION AND CORRECTION

BY THE COMMISSION: It has come to the Commission's attention that portions of the order in this docket issued 7 September 1978 should be clarified or corrected.

IT IS, THEREFORE, ORDERED that the Order herein issued 7 September 1978 be, and is hereby, changed as follows:

(1) Exhibit I, page 2, item (f)

Day	Standard Procedure
65	Bill marked showing charge for second month's service and arrears separately; if arrears is shown on bill, notice enclosed stating: "Arrears must be paid within 10 days after billing date to avoid disconnection of service. CONTACT BUSINESS OFFICE IMMEDIATELY TO DISCUSS CREDIT ARRANGEMENTS IF FULL PAYMENT IS NOT POSSIBLE. NO OTHER NOTICE WILL BE MAILED."

(2) Exhibit II, page 1

Present Rule	Proposed Rule
Credit Not Good - 91 days Credit Good - 121 days	All customers - 76 days

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 71

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-28 of the Commission's Motor Carrier Rules and Regulations Regarding the Commercial Zones of Municipalities for Motor Carriers of Freight) ORDER ESTABLISHING RULE

HEARD IN: Room 214 of the Dobbs Building, Raleigh, North Carolina, on May 3, 1978, at 9:30 a.m.

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Leigh H. Hammond, Robert Fischbach, and John W. Winters (Chairman Robert K. Koger and Commissioner Sarah Lindsay Tate participated in the decision upon reading the record. Commissioner Ben E. Roney did not participate.)

APPEARANCES:

For the Public Staff:

Jane S. Atkins, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991 - Dobbs Building, Raleigh, North Carolina 27602

For the Intervenors:

J. Ruffin Bailey, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Lackey Industries, Inc., Tarheel Industries, Inc., and North Carolina Merchandise Warehousemen's Association

BY THE COMMISSION: By order of June 27, 1977, the Commission instituted a general investigation and rulemaking proceeding in this docket regarding North Carolina Utilities Commission Rule R2-28 concerning commercial zones and municipalities for motor carriers of freight. The Commission, by that order directed that notice be given of proposed Rule R2-28, required that notice and the proposed rule be mailed to all motor carriers of freight holding a certificate or permit issued by the North Carolina Utilities Commission, required that the matter be noticed in the Commission's Truck Calendar of Hearings, ordered that parties desiring a hearing concerning the proposed rule file a request for hearing on or before July 31, 1977, and gave notice that in the event that no requests for hearing were filed by that date that the Commission would make a decision on the record without a hearing.

The Commission in NCUC Rule R2-28 has promulgated that all carriers of motor freight regulated by the Commission, unless otherwise specifically provided, shall observe specific commercial zones of municipalities. The Commission is in receipt of inquiries regarding Rule R2-28 concerning commercial zones, as well as requests by various interested parties for changing said rule in order that guidelines for commercial zones of municipalities of motor carriers of freight in North Carolina intrastate commerce be consistent with those in interstate commerce. The amendments proposed to Rule R2-28 were to establish uniformity in the commercial

zones instituted by the North Carolina Utilities Commission and in the commercial zones instituted by the Interstate Commerce Commission for the purpose of clarity and for promoting efficient and economical service in the state.

October 13, 1977, the Public Staff gave notice of intervention which was recognized by the Commission on October 17, 1977. Also on October 17, 1977, a motion was filed to intervene in support of the proposed change on behalf of Lackey Industries, Inc.; Tarheel Industries, Inc.; and North Carolina Merchandise Warehousemen's Association.

On October 20, 1977, the Public Staff filed a motion to continue the hearing for a period of six months in order to grant additional time to study the ramifications of the proposed revision. The Public Staff also proposed that the Commission require the carriers presently holding common or contract carrier authority from the Commission to submit data on their Rule R2-28 operations for the twelve months ending June 30, 1977, under the present rule and estimates of what their operations would be under the proposed, revised rule. October 26, 1977, J. Ruffin Bailey filed an objection to the motion on behalf of the parties which had moved to intervene in support of the proposed rule. The Commission, by order of October 28, 1977, continued the hearing until May 3, 1978, and required that all carriers presently holding contract or common carrier authority from the Commission submit on or before April 28, 1978, data on their Rule R2-28 operations for the twelve months ended June 30, 1977, and estimates of what their operations would be under the proposed rule.

On October 25, 1977, a joint intervention and statement of position was filed by Thomas R. Eller, Jr., on behalf of the following parties holding authority to transport household goods (Group 18): Airway Moving and Storage; Batson Transfer and Storage Company, Inc.; Bowen's Moving and Storage, Inc.; Burnham Van Service; Eastern Transit Storage Company; Fidelity Moving and Storage Company, Inc.; Fleming-Shaw Transfer and Storage, Inc.; Gilbert Trucking Company; Horne Storage Company, Inc.; M.S. Smith Storage and Warehouse, Inc.; Union Transfer and Storage Company, Inc.; and Yarborough Transfer Company. The household goods carriers are opposed to the proposed change in Rule R2-28. The Commission by order of October 28, 1977, allowed the intervention of the above-mentioned parties supporting the proposed change represented by J. Ruffin Bailey and allowed the intervention of the household goods carriers opposed to the proposed change represented by Thomas R. Eller, Jr.

November 3, 1977, the Attorney General gave notice of intervention which was recognized by the Commission by order of November 15, 1977.

April 26, 1978, the Commission received a letter from Thomas R. Eller, Jr., on behalf of the household goods carriers indicating that the carriers of household goods

which had intervened in this docket had been unable to make compilation of reliable data pursuant to the Commission's order requiring them to file data concerning the proposed rule change. The letter further indicated that the carriers of household goods did not contemplate presenting any witnesses in the hearing on May 3, 1978.

The Commission also received numerous responses from other licensed carriers and shippers interested in the proposed rule change.

The matter came on for hearing as scheduled on May 3, 1978. J. Ruffin Bailey was present representing Lackey Industries, Inc.; Tarheel Industries, Inc.; and North Carolina Merchandise Warehousemen's Association. Jane Atkins, Public Staff Attorney, was present representing the using and consuming public. No one was present representing the parties opposed to the proposed rule change nor were any other parties present or represented by counsel.

No testimony was presented at the hearing. It was stipulated by Mr. Bailey and the parties he represented, and by the Public Staff attorney, that all the letters and responses filed concerning the proposed rule be made a part of the record. Mr. Bailey presented oral argument in support of the proposed rule change. Ms. Atkins, in the absence of parties in opposition to the proposed rule change, noted some of their comments in opposition to extending the commercial zone which would enlarge the territory for unregulated carriers and suggested that the Commission consider adopting the proposed rule change for all carriers except carriers of household goods.

Based upon the entire record the Commission makes the following

FINDINGS OF FACT

1. That the Interstate Commerce Commission (ICC) amended its regulations concerning commercial zones of municipalities of motor carriers of freight effective November 28, 1977, creating a difference in the commercial zones for intrastate traffic and the commercial zones for interstate traffic.

2. That uniformity in the Commission's rules and the ICC requirements concerning commercial zones of municipalities for motor carriers of freight could be achieved by the proposed amendment to NCUC Rule R2-28 and would probably eliminate some confusion which now exists and would probably promote more economical and efficient service to all the communities of the state.

3. That a major source of complaint to this Commission is the unregulated carrier of household goods which is not required by law to carry insurance for the articles which it transports.

4. That it is contrary to the public interest at this time to enlarge the territory of operation for unregulated carriers of household goods in the absence of a statutory requirement that such carriers carry cargo insurance.

5. That it is in the public interest to make uniform the commercial zones of municipalities for motor carriers of freight other than household goods carriers.

Whereupon, the Commission reaches the following

CONCLUSIONS

The North Carolina Commission rule and the ICC rule concerning commercial zones of municipalities for motor carriers of freight were uniform until November of 1977 when the ICC's modification of the commercial zone took effect. The Commission is of the opinion, based on letters in support of the proposed rule change and the entire record, that it is in the best interest of all parties for the commercial zones of municipalities for motor carriers of freight to be uniform for intrastate traffic and interstate traffic except in regard to household goods carriers. The Commission, therefore, concludes that commercial zones of municipalities for motor carriers of freight should be made uniform for interstate and intrastate traffic except in regard to household goods carriers.

The single issue raised at the hearing was whether or not the commercial zones of municipalities for household goods carriers in North Carolina should be extended so that they are the same as those under the ICC. The Commission recognizes that consumers are now experiencing problems with unregulated carriers who operate within the commercial zones of municipalities and over whom the Commission has little or no jurisdiction. A significant portion of the problem regarding the unregulated household goods carriers concerns the absence of liability insurance to cover the goods transported. The Commission believes that it is not in the best interest of the public or regulated carriers to extend the territory in which these unregulated carriers may operate without insurance by extending the commercial zone for household goods carriers in North Carolina. The Commission, therefore, concludes that the proposed rule change to extend the commercial zones of municipalities for motor carriers of freight in North Carolina to coincide with that set forth by the ICC for interstate traffic should not include household goods carriers.

IT IS, THEREFORE, ORDERED that NCUC Rule R2-28 be, and hereby is, amended as set forth in Exhibit No. 1 which is attached and incorporated herein effective July 28, 1978.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of July, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

NOTE: For Exhibit No. 1, see the official Order in the Office of the Chief Clerk.

DOCKET NO. M-100, SUB 77

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Regulation of Utility Pole Attachments by) ORDER DISMISSING
the North Carolina Utilities Commission) DOCKET

TO ALL TELEPHONE AND ELECTRIC COMPANIES

BY THE COMMISSION: By Memorandum dated May 26, 1978, the Commission directed all electric and telephone utilities under its jurisdiction to file tariffs and proposed regulations with respect to CATV pole attachments, subject to complaint and hearing. By Order of June 27, 1978, the time for filing tariffs and proposed regulations has been extended to and including August 4, 1978.

Upon its own motion, the Commission has reconsidered the question of whether it has jurisdiction to fix rates and charges for CATV pole attachments and has concluded that it has no such jurisdiction under the Public Utilities Act of 1963. (Chapter 62 of the North Carolina General Statutes)

Unless a power or authority has been granted to the Commission by the legislature, it is without authority to regulate that activity. WCOG, Inc., et al vs. Southern Bell, et al (Docket No. P-89, 64 PUR 3rd 314, decided June 7, 1966). While the Commission believes that state regulation of CATV pole attachments is preferable to federal regulation, this belief cannot alter the fact that there is currently no statutory authority giving the Commission such power.

IT IS, THEREFORE, ORDERED that the Commission directive to file tariffs and proposed regulations relating to CATV pole attachments is hereby rescinded.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of July, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. E-100, SUB 32

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	)))))	ORDER ADOPTING 1978 REPORT - FUTURE ELECTRICITY NEEDS FOR NORTH CAROLINA: LOAD FORECAST AND CAPACITY PLAN - 1978

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, Beginning Tuesday, February 7, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, John W. Winters, and Edward B. Hipp

APPEARANCES:

For the Public Staff:

Jerry B. Fruitt, Chief Counsel, Paul L. Lassiter, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Intervenors:

Richard E. Jones, Associate General Counsel, Carolina Power & Light Company, P.O. Box 1551, 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

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

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

Thomas J. Bolch, Crisp, Bolch, Smith, Clifton & Davis, Attorneys at Law, P.O. Box 751, Raleigh, North Carolina 27602

For: North Carolina Electric Membership Corporation

David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, P.O. Box 527, Raleigh, North Carolina 27602
The North Carolina Oil Jobbers Association

Thomas E. Erwin, Attorney at Law, Post Office Box 928, Raleigh, North Carolina 27602
For: The Carolina Environmental Study Group, the Conservation Council of North Carolina, Inc., the League of Women Voters of North Carolina, Inc., and the Joseph Le Conte Chapter of the Sierra Club

Mark E. Sullivan, Attorney at Law, 203 Loft Lane, #48, Raleigh, North Carolina 27609
For: The Carolina Environmental Study Group, the Conservation Council of North Carolina, Inc., the League of Women Voters of North Carolina, Inc., and the Joseph Le Conte Chapter of the Sierra Club

Richard L. Griffin, Associate Attorney General, North Carolina Department of Justice, P.O. Box 609, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: The General Statutes of North Carolina require that the Commission annually analyze and estimate the probable future growth in the use of electricity and the need for future generating capacity in North Carolina. G.S. 62-110.1 provides, in part, as follows:

"(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."

To assist the Commission in carrying out its responsibilities under G.S. 62-110.1, the Public Staff developed an independent electric power demand forecast and generating capacity model for the major electric utilities providing public utility service in North Carolina. The Public Staff's report was filed with the Commission on December 15, 1977.

On November 29, 1977, the Commission issued its Order setting hearing and inviting participation in this docket. The Order provided that the results of the Public Staff's report would be presented at a public hearing beginning on February 7, 1978, 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 forecasting and electric generation. The Order further directed Carolina Power & Light Company (CP&L), Duke Power Company (Duke), and Virginia Electric and Power Company (Vepco) to publish notice of the hearing in newspapers throughout the State for four consecutive weeks.

Notices of intervention from the Public Staff and from the Attorney General of North Carolina were received and recognized by the Commission. The Commission also received petitions for intervention from the following parties: CP&L, Duke, Vepco, the North Carolina Electric Membership Corporation, the North Carolina Oil Jobbers Association, the League of Women Voters of North Carolina, Inc., the Conservation Council of North Carolina, Inc., the Joseph Le Conte Chapter of the Sierra Club, and the Carolina Environmental Study Group, Inc. The Commission granted all of the petitions for intervention and made the petitioners thereto parties of record in this proceeding.

The matter came on for hearing as scheduled on February 7, 1978. The Public Staff presented the testimony and exhibits of the following witnesses: N. Edward Tucker, Jr., Public Staff Engineer in the Electric Division, who testified on

areas of forecasting of future electric prices, developing customer class load factors to be used in estimating future peak demands, and analyzing the effects of alternate growth scenarios on the price of electricity; Thomas M. Kiltie, Public Staff Economist, who testified on his preparation of peak demand projections by examination of alternative econometric peak load models and the commercial sector econometric Kwh forecasts for CP&L and Duke; Edwin A. Rosenberg, Public Staff Economist, who testified on the econometric estimation of the industrial usage of electricity; Dennis J. Nightingale, Public Staff Engineer in the Electric Division, who testified on noneconometric load forecasting and supply configuration development; Daniel D. Mahoney, Economist with the Research and Planning Section of the Division of State Budget and Management in the North Carolina Department of Administration, who testified in support of the forecasting procedures and methodology utilized in producing the long-term forecast of State economic activity and incorporated in the Public Staff's report; 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; and Brian M. Flattery, Director of the Energy Division of the Department of Commerce, who testified concerning actions which State government has taken to promote conservation and alternate energy sources. The Public Staff, by affidavit, submitted the testimony of Dennis W. Goins, formerly a Public Staff Economist, whose testimony described the methodology and results contained in the residential forecast portion of the Public Staff's report.

Duke Power Company presented the testimony of the following witnesses: William S. Lee, Executive Vice President of Duke Power Company, who testified concerning Duke's planned construction program for 1985 and beyond and why Duke has elected not to change the planned in-service dates for the McGuire and Catawba nuclear units; Donald H. Denton, Jr., Vice President - Marketing, who described Duke's load management program and its impact on future generating requirements; David Rea, Manager of Forecasting and Budgets, who testified on Duke's system peak load and sales forecasts; and Donald H. Sterrett, Manager of System Planning, who testified on the generating capacity additions scheduled for the Duke service area in the context of anticipated future growth of the Duke system.

The North Carolina Electric Membership Corporation (EMC) presented the testimony of the following witnesses: Alton P. Wall, Executive Vice President and General Manager of North Carolina Electric Membership Corporation, who testified concerning the EMC's power supply plans; Patricia Lloyd Williams, EMC, Staff Engineer, whose testimony described the procedures followed in the development of the EMC's recent Power Requirements Study and the projection of the EMC's system demand and energy requirements; and Gerald O. Stephens, Supervisory Power Requirements Officer, Power

Survey Requirements Staff, Rural Electrification Administration (REA), United States Department of Agriculture, who testified that the North Carolina Electric Membership Corporation has submitted to the REA the Power Requirements Study as testified to by Patricia Williams.

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 1997 and the methodology used to develop these forecasts.

Virginia Electric and Power Company offered the testimony of Gary R. Keesecker, Manager of Power Supply, who testified on Vepco's methods of forecasting demand and energy requirements and the planning of new generation for the Vepco system.

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., offered the testimony and exhibits of Jesse L. Riley, a Senior Research Associate in the Research and Development Department of Celanese Fibers Company, who presented a critique of various forecasting methodologies and described a new methodology, with the results and the applicability of that methodology to future generating mix.

CP&L and Duke jointly sponsored Robert M. Spann, Associate Professor of Economics at Virginia Polytechnic Institute and State University, who testified in rebuttal to the forecast methodology propounded by Riley.

The following public witnesses appeared and testified at the hearing: (1) John Warren, (2) Brad Stuart, (3) Helen Reed, (4) Joseph Reinckens, (5) Arthur Kaufman, (6) Slater Newman, (7) Tom Lominac, (8) Dr. Lavon Page, (9) David Springer, (10) Dr. David Martin, (11) Lloyd Tyler, (12) Stephanie Rodelander, (13) Pam Thornton, (14) William Richardson, (15) John Speights, (16) Alvin Moss, (17) Kathleen Zobel, (18) An Painter, (19) Howard Morland, (20) Karen Wilson, (21) Jack Ashburn, (22) Bonnie Shriver, (23) Dr. William Walker, (24) Dr. Constance Kalbach, (25) Jim Barrow, and (26) Thomas Gunter. In addition, John Curry appeared on behalf of Senator McNeill Smith and presented to the Commission a statement prepared by Senator Smith.

For the purpose of preparing its 1978 report, the Commission has considered the testimony and exhibits presented at the hearing in this docket and the information contained in the files and records of the Commission. The Commission has also taken judicial notice of the evidence presented in the July and September 1978 hearings in Docket No. M-100, Sub 78, entitled "Investigation of Cost-Based Rates, Load Management, and Conservation Oriented End-Use Activities."

Based upon the evidence presented in Docket No. M-100, Sub 78, the Commission in the ordering paragraphs below will order CP&L, Duke, and Vepco to file, within 270 days after the date of this Order, detailed plans for the implementation of two load management programs: the utility control of residential water heating and the utility control of specified interruptible industrial loads. Both programs would be offered on a voluntary basis. The guidelines for these two programs are set out in the ordering paragraphs; if the filings of the three utilities differ from the recommendations of the Public Staff set out in its proposed order filed November 20, 1978, in Docket No. M-100, Sub 78, such filings should contain appropriate justification. The Commission will also order CP&L, Duke, and Vepco to file on an experimental basis voluntary rates incorporating time-of-day pricing to those customers who install thermal storage equipment, when used in connection with solar equipment, or installed separately, or a combination of the two for the purpose of providing space heating.

In Docket No. M-100, Sub 78, the Public Staff has filed a proposed order and the electric utilities have filed responses thereto. The Commission will issue an order in this docket at an early date.

Based upon the testimony and exhibits presented at the hearings in this docket, and in Docket No. M-100, Sub 78, the information contained in the files and records of the Commission, and the Findings of Fact set out in its Report, the Commission concludes that it should adopt its report entitled Future Electricity Needs for North Carolina: Load Forecast and Capacity Plan - 1978.

IT IS, THEREFORE, ORDERED:

1. That the report of the Commission entitled Future Electricity Needs for North Carolina: Load Forecast and Capacity Plan - 1978 including its Findings and Conclusions, is hereby adopted.

2. That the load forecasts and capacity plans included as Tables A and B in the above referenced Report are hereby adopted as the Plan of the Commission, subject to the conditions stated in the Report.

3. That Virginia Electric and Power Company shall present to the Commission in the mid-1979 hearings on load growth and capacity planning a detailed analysis of Vepco's load growth and required capacity addition plans. The Public Staff is requested to develop and present a separate analysis of these matters.

4. That Carolina Power & Light Company, Duke Power Company, and Virginia Electric and Power Company shall, within 270 days after the date of this Order, file detailed plans for the implementation of two load management programs:

1. Utility control of residential water heating; and

2. Utility control of specified interruptible industrial loads.

The implementation plans to be filed shall include:

1. Provisions for voluntary customer participation in these programs,

2. A description of the load management equipment to be used,

3. Detailed time schedules for implementation,

4. Proposed rate schedules and tariff provisions including limitations on interruptions,

5. An implementation date no later than January 1, 1980, in the area of greatest density served by each utility,

6. Plans for extending the offerings to other areas, and

7. Rate incentives, implementation plans, and provisions of interruption (maximum length and number of interruptions, etc.), which are to be developed and filed by each utility; however, if these filings differ from those proposed by the Public Staff in Docket No. M-100, Sub 78, such filings should include appropriate justification.

5. That Carolina Power & Light Company, Duke Power Company, and Virginia Electric and Power Company shall file voluntary rates incorporating time-of-day pricing to those customers who install thermal storage equipment, when used in connection with solar equipment, or installed separately, or a combination of the two for the purpose of providing space heating. The rate schedules shall be cost justified and shall be filed on an experimental basis with appropriate contract time designated, between the utility and the customer, sufficient to allow the customer an incentive to adopt such a rate in connection with his solar/thermal storage installation.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of December, 1978.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sandra J. Webster, Chief Clerk

SUMMARY OF 1978 ELECTRIC LOAD FORECAST REPORT

The Utilities Commission issued its 1978 annual electric load forecast today predicting a significant reduction in rate of growth of future electric needs for North Carolina during the period 1978-1992.

The Commission reviewed all evidence of economic and demographic activity in North Carolina for the period 1978 through 1992 and forecast a reduction in the rate of peak-load growth for combined residential, commercial, and industrial uses for the major electric generating utilities in North Carolina.

For Duke Power Company, the Commission forecast a 5.4% annual rate of peak-load growth through 1992, down from the 1977 forecast of 6.7% annual growth for the period. For CP&L, the Commission forecast a rate of growth of 5.2%, down from the forecast of 6.88% made in 1977. Duke and CP&L represent 95% of the generation of electricity in North Carolina. The forecast for Vepco was 5.3% annual growth.

The reduced forecast of load growth will result in a reduction in the construction schedule of CP&L and Duke, and the specific reductions will be the subject of further hearings by the Commission.

The Commission found that conservation and load management are essential in reducing the future growth rates in peak-load demand to the levels forecasted and would assist in reducing the number of generators required to be built between 1979 and 1992.

The Commission stated that it is aware of the success of Governor Hunt's administration in attracting high wage industry to North Carolina and that industry has expanded this year at about twice the rate of last year. The Commission stated that it has the responsibility to ensure that the continued economic growth of the State is not impaired by a lack of adequate utility services. For these reasons, the Commission held open the time to require the utilities to delay their construction schedules pending examination of this matter in detail in the July 1979 hearings.

The Commission ordered Duke, CP&L, and Vepco to file plans for voluntary central switching of residential water heating and interruptible industrial loads. The three utilities were also required to offer immediately voluntary rates which incorporate time-of-day pricing incentives to customers who install thermal storage equipment for the purpose of providing heating when used in connection with solar equipment or installed separately or a combination of the two. Further offerings of time-of-day pricing will not be considered until completion of the on-going experiments

on time-of-day pricing in CP&L, Duke, and Blue Ridge EMC service areas.

The Commission found that the most economical generating mix for CP&L and Duke for 1978 through 1992 would consist of one-half base capacity, one-third cycling capacity, and one-sixth peaking capacity. The most economical type generation for CP&L and Duke would be a mix of hydroelectric, coal fired, and nuclear fueled generators, with such additional benefits as can be derived from renewable energy sources including wind power and solar energy.

The base case growth trends in kilowatt-hour consumption before applying conservation and load management considerations were 5.5% for residential customers, 6.6% for commercial customers, and 7.9% for industrial customers.

The projection of increased consumption used an estimated increase in the price of electricity of no more than the annual rate of inflation. The population growth used in the estimates of consumption was based on a 1.2% annual growth in population in North Carolina.

The Commission's forecast was compared with a national forecast for growth in peak-load demand for the entire United States of 5% until 1985, then dropping to 4.6% by 1995. North Carolina has had an electric load growth rate considerably ahead of the national rate during past years. For the period 1960 through 1973, the experienced annual peak-load growth rate in North Carolina ranged between 8% and 11%, corrected for weather conditions. The Commission's new forecast reflects major reductions in peak-load growth attributed to conservation by all customers and load management in the commercial and industrial sectors. There was a substantial slowdown of the peak-load growth in 1974 and 1975 and in the summer of 1978.

The Commission's forecast was based upon public hearings held in February 1978, in which the Commission heard testimony on the forecast from the Public Staff, the Attorney General, the North Carolina Electric Membership Corporation, the Carolina Environmental Study Group, the Conservation Council of North Carolina, the Sierra Club, the League of Women Voters, and the North Carolina Oil Jobbers Association, and Duke, CP&L, and Vepco, along with many public witnesses. The Commission also took official notice of the evidence from the July and September 1978 public hearings in its investigation of conservation, load management, and end-use time-of-day rates.

The complete published report contains detailed analysis of all forecasting data and growth statistics, including extensive charts and data schedules totalling 120 pages of analysis and 21 tables of data.

DOCKET NO. E-100, SUB 33

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Amendment to NCUC Form E-1 Rate Case Information Report - Electric Companies, to Include Lead-Lag Study	) ORDER MODIFYING NCUC FORM E-1, RATE CASE INFORMATION REPORT - ELECTRIC COMPANIES, TO INCLUDE LEAD-LAG STUDY

BY THE COMMISSION: G.S. 62-133 requires that the Commission, in the fixing of rates, "ascertain the fair value of the public utility's property used and useful in providing the service rendered to the public within this State, considering the reasonable original cost of the property less that portion of the cost which has been consumed by previous use recovered by depreciation expense, the replacement cost of the property, and any other factors relevant to present fair value of the property."

Therefore, in determining the fair value of the public utility's property the Commission must also consider the level of investment required to enable the utility to maintain an inventory of materials and supplies and the cash necessary to pay the cost of providing utility service prior to the time revenues for such service are collected from its customers and to meet compensating bank balance requirements. Such an investment is traditionally included in the rate base as an allowance for working capital.

However, the Commission believes that such an allowance for working capital should be included as a component of the fair value rate base only to the extent that the debt and equity investors have been or will be required to provide capital to support the utility's investment in such assets necessary for the day-to-day operations of the business.

In recent rate proceedings before this Commission controversy has been rife with regard to the methodology that should be employed by the Commission in determining the proper level of investment to be included in the fair value rate base as an allowance for working capital.

While the parties disagree as to the propriety of the level of working capital when measured by the "formula method" or the "balance sheet analysis method," they generally agree that "lag studies," which are made to determine the amount of costs paid in advance or in arrears of the receipt of revenues from customers, are the most accurate means of measuring a utility's working capital requirement. However, because of the additional time and cost that is required to prepare a lag study in comparison to the formula method or the balance sheet analysis method, the parties have not offered into evidence a lag study in support of the allowance for working capital which they consider to be proper.

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, 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 that 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.

The balance sheet analysis method, although seemingly straight-forward and direct, is exceedingly complex and oftentimes reflects piecemeal adjustments calculated by employing certain lag study techniques.

Therefore, absent a properly prepared lead-lag study the Commission is "hard put" to determine the propriety or reasonableness of an allowance for working capital determined by use of a formula method or by use of a balance sheet analysis method.

NCUC Form E-1, Rate Case Information Report - Telephone Companies, presently requires that Carolina Telephone and Telegraph Company, General Telephone Company of the Southeast and Southern Bell Telephone and Telegraph Company provide lead-lag studies as a part of any application for a general rate increase.

The Commission in its final Order in Docket No. E-7, Sub 237, Application of Duke Power Company for an Adjustment of Its Rates and Charges in Its Service Area Within North Carolina, in ordering paragraph No. 6 ordered "That in future filings of general rate increase requests, Duke shall file as a part of NCUC Form E-1 (Rate Case Information Report) in support of its total working capital requirement a properly prepared, complete, detailed lead-lag study."

Additionally the Commission is issuing concurrent herewith its Order in Docket No. G-100, Sub 36 which modifies NCUC Form G-1, Rate Case Information Report - Gas Companies, to include a lead-lag study.

The Commission, therefore, concludes that NCUC Form E-1, Rate Case Information Report - Electric Companies should be modified to include a properly prepared, complete, detailed lead-lag study in support of the Applicant's total working capital requirement as contained therein.

The Commission, however, is not unmindful of the additional time and expense which the Applicant will incur in preparation of NCUC Form E-1 resulting from this modification.

Therefore, the Commission will, after completion of a careful detailed analysis of each Applicant's initial lead-

lag study, reconsider the propriety of this modification of NCUC Form E-1.

IT IS, THEREFORE, ORDERED that NCUC Form E-1, Rate Case Information Report - Electric Companies, Section C - Data Request, is hereby amended to include the following:

Item No. 56. A properly prepared, complete, detailed lead-lag study for the test-year for total Company electric, North Carolina retail, other retail jurisdictions, and FERC wholesale including all workpapers in support thereof (3 copies required).

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of October, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 18

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rulemaking Proceeding for Curtailment of) ORDER GRANTING
Gas Service Due to Gas Supply Shortage) PETITION

BY THE COMMISSION: On 3 August 1978 Carolina Power and Light Company (CP&L) filed a Petition in the above docket requesting that it be allowed to purchase a small volume of natural gas in order to initiate a start on each of the four IC generators located at its W.H. Weatherspoon Electric Plant in Lumberton, North Carolina. CP&L states in its Petition that current usage of bottled gas to start the IC engines has several disadvantages, including slow delivery of bottles, inconvenience of handling, and excessive cost. CP&L further states that its requirements for bottled gas at the Weatherspoon plant during 1977 ranged from zero cubic feet in March to 30,960 cubic feet in January, with each of the four IC units requiring 180 cubic feet of natural gas per start.

The natural gas service requested by CP&L would be classified in NCUC Priority 2.1 and would be provided by North Carolina Natural Gas Corporation (NCNG), which presently has a metering station at the Weatherspoon plant. One pressure regulator, one meter, and approximately 50 feet of two-inch pipe would be required to tie the present system into the existing pipeline.

Upon consideration of this Petition, the Commission is of the opinion that CP&L should be allowed to purchase a small volume of natural gas, not to exceed one Mcf per day, from

NCNG in order to initiate a start on its IC units at the Weatherspoon plant. Such usage is distinguishable from the use of natural gas as primary fuel for the generation of electricity and will have a negligible impact on natural gas supplies in North Carolina. For these reasons, the Commission concludes that it is in the interest of customers of both CP&L and NCNG that the request for service be granted.

IT IS, THEREFORE, ORDERED that Carolina Power and Light Company be granted permission to purchase natural gas in an amount not to exceed one Mcf per day from North Carolina Natural Gas Corporation for the limited purpose of initiating a start on its four IC units at the W.H. Weatherspoon Electric Plant in Lumberton, North Carolina, and, further, that such usage of natural gas be classified as Priority 2.1.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of August, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding Concerning	) ORDER PROVIDING FOR
Load Growth Policies of North	) CONNECTION OF CUSTOMERS
Carolina Gas Distribution	) ADJACENT TO EXISTING
Utility Companies	) MAINS AND PRESCRIBING
	) FILING REQUIREMENTS FOR
	) CONNECTION OF NEW
	) INDUSTRIAL CUSTOMERS

BY THE COMMISSION: By initial and supplemental orders issued October 25 and November 28, 1977, respectively, the Commission established rules for the connection of customers to replace volumes lost in certain high priority classes due to attrition and conservation. The October 25 Order provided that replacement customers in Priorities 1.1, 1.2, and 2.1, on existing mains, could be attached to the gas systems without prior Commission approval but that new customer commitments for Priorities 1 through 5 with nonboiler usage greater than 50 Mcf on a peak day, and any commitments not located on existing mains, were subject to prior approval depending upon the feasibility of the attachment and the ratio of gas availability to the numbers and types of jobs to be added to the state's economy. The Order of November 28 provided that the gas companies may add Priority 1 customers who are not on existing mains in the

event commitments to serve such customers were made prior to January 18, 1977.

The Commission is now of the opinion that further provision should be made in order to expedite service to, and prevent discrimination against, certain customers located adjacent to existing mains. Accordingly, the Commission concludes that its attrition replacement rules should be amended to permit the attachment of customers in Priority 1.1 who are located within 300 feet of existing mains and those in Priorities 1.2 and 2.1 within 500 feet of existing mains, subject to volume limitations previously established in this docket.

Having heard and approved several applications for gas service to new industrial customers since the issuance of its October 25 order, the Commission is of the further opinion that a standard letter request should be used for Priority 2.2 and 2.5 customers in order to enable the Commission to act without the expense and delay of a public hearing. All other requests for new gas service commitments should be submitted by formal petition. In conjunction with this procedure, each natural gas utility should file a monthly report of customer and load attachment so that the Commission can more closely monitor attrition replacement activity.

IT IS, THEREFORE, ORDERED as follows:

1. That the five North Carolina natural gas utilities are hereby authorized to attach customers not now located on existing mains, without further Commission action, under the following circumstances:

(a) If the customers are in Priorities 1.1 and require a main extension of 300 feet per customer, or less; or

(b) If the customers are in Priorities 1.2 and 2.1, and require a main extension of 500 feet per customer, or less.

2. That the gas utilities are hereby authorized to submit requests for service to new customers in Priorities 2.2 and 2.5 by letter application containing verified data as set out in Exhibit A attached hereto.

3. That all other requests for service not specifically authorized by order of this Commission shall be made by formal petition.

4. That each gas utility shall file with the Chief Clerk, a monthly report, in the form shown on Exhibit B attached hereto, within 45 days after the end of the month to which the report applies.

5. That municipalities purchasing gas at wholesale from North Carolina Natural Gas Corporation shall be permitted to add customers as provided in Paragraphs 1 and 2 above.

6. That all new industrial customers in Priority 2.5 or below shall be required to install alternate fuel capability and reasonable storage capacity as a condition of receiving gas service.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Note: For Exhibit A, see the official Order in the Office of the Chief Clerk.

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) DENYING) REQUEST

BY THE COMMISSION: On 8 August 1977 the Carolinas' Exploration Committee filed with the Commission requests for approval of two new three-year programs (ERI, Ltd. and Transmac) at increased levels of expenditure. By order issued 1 December 1977, after public notice and hearing, the Commission issued an order authorizing continued participation in each program for one year at existing levels. Prior to the issuance of that order, however, the five gas companies executed three-year contracts with ERI, Ltd.; Public Service, North Carolina Natural, and Piedmont reduced their participation. The companies did not sign contracts with Transmac but entered the program at the level of expenditures requested.

On 26 June 1978 Public Service filed a letter seeking authorization to increase its participation in the ERI, Ltd., and Transmac programs, and on 17 July 1978 members of the Exploration Committee appeared before the Commission at its regular Staff Conference explaining their positions and supporting Public Service. The companies, through the Exploration Committee, are asking in effect that the 1 December order be revised to grant the relief originally sought.

Upon consideration of these matters, and of the entire record herein, the Commission is of the opinion that its

decision as to the level of participation in the Transmac and ERI, Ltd., programs should stand.

IT IS, THEREFORE, ORDERED that the request of the five North Carolina gas utilities that the order in this docket issued 1 December 1977 be revised to approve the levels of expenditures for the first year (1977-78) of the three-year Transmac and ERI, Ltd., programs as requested be, and are hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of July, 1978.

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

HIPP, COMMISSIONER, DISSENTING: I dissent on the grounds that I do not consider it reasonable to interrupt the 1978 gas exploration program in the middle of the year, even though the cost has gone beyond the originally approved budget for the program. I would allow the North Carolina gas distribution companies to continue participation in the program for the balance of the contract year ending September 1978 for Transmac and October 1978 for ERI, and reserve judgment on the overall program beyond 1978 until after the evidentiary hearing scheduled for August 29, 1978, when there will be an opportunity to evaluate the success or lack of success of the exploration program. While I respect the majority's desire to hold to the previously approved budget, I consider that the preliminary information on the ERI program merits completion of the year's exploration in the interest of finding low cost gas. The Transmac program would appear to justify completion of this year's exploration based upon the apparent assured volumes of gas in the face of continuing Transco curtailments. The national program for natural gas is still pending in Congress, and we cannot determine at this time the availability or price of natural gas supplies in the future. If natural gas is deregulated, the price will rise and we need to make every effort possible for low cost gas from the exploration program. If regulation is continued, curtailment will undoubtedly continue and we will need the additional volumes of gas to meet residential and industrial employment needs. I do not deem it reasonable or advisable to interrupt the North Carolina interest in the exploration program at this critical time in the gas crisis.

Edward B. Hipp, Commissioner

COMMISSIONER TATE, DISSENTING: I join in Commissioner Hipp's dissent and disagree with the majority on other grounds.

The North Carolina gas companies filed a request for approval of three-year programs in ERI and Transmac on August 8, 1977, and stated that it would be necessary to

have a decision by October 19, 1977. At the hearing in October, the Companies informed the Commission that the contract offered them was for three years and for increased amounts. The Companies had to respond to the contract offer on October the 19th, but the Commission did not issue its Order until December 1. In addition, the Commission did not respond to the contract that had been presented to the Companies but chose to authorize Piedmont, Public Service, and N.C.N.G. to make a counteroffer for one year at a lesser dollar amount. In effect, the Commission rejected the contract that had been presented to it and, without being a party to the negotiations between the three Companies and Transmac and ERI, simply suggested that an alternative contract would be allowed. This "alternative contract" approved by the Commission was in no way responsive to the contract that had been presented in the hearings, and the Commission had no way of knowing whether or not ERI and Transmac would be at all interested in the terms set out by the North Carolina Public Utilities Commission.

Since the Commission's original Order in December of 1977 came six weeks too late and was unresponsive to the terms that had been offered to the gas companies, I now feel that we are again responding with too little, too late. Because the Commission did not act in time to allow Piedmont, Public Service, and N.C.N.G. to either accept or reject the contract as offered, the Companies had to respond without knowing how the Commission would rule. The Commission should now avoid the unnecessary financial complications that will result from having two companies participate in ERI and Transmac for only three quarters of the year and another company having substantial stockholder interest in one of the programs.

Sarah Lindsay Tate, Commissioner

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 APPROVING) REQUESTS FOR EXTENSION OF ERI, LTD.,) AND TRANSMAC PROGRAMS

HEARD IN: Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on August 29, 1978, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, John W. Winters,* and Edward B. Hipp

*Corrected by Order dated October 11, 1978.

APPEARANCES:

For the Applicants:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Box 2129, 222 Maiden Lane, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation

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For: Pennsylvania and Southern Gas Company and United Cities Gas Company

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

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

For the Intervenors:

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

Charles C. Meeker, Sanford, Cannon, Adams & McCullough, Attorneys at Law, P.O. Box 389, Raleigh, North Carolina 27602
For: CF Industries, Inc.

Dennis P. Myers, Associate Attorney General, Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

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

BY THE COMMISSION: On June 19, 1978, the Carolinas' Exploration Committee submitted requests pursuant to NCUC Rule R1-17(h)(3) for Commission approval of (1) extension of the Transmac program for the second and third years of the second phase of the program beginning on September 1, 1977, and (2) extension of the ERI, Ltd. (ERI), program for an additional two years beginning October 20, 1978.[1] Estimated costs to the five North Carolina gas utilities of

participating in the two programs for the next two years are as follows:

	Exploration	Development
Transmac		
1978-79	$4,310,843	$1,616,564
1979-80	4,789,825	1,796,183
Total	$9,100,668	$3,412,747
ERI, Ltd.		
1978-79	$1,361,334	$ 680,667
1979-80	1,485,092	742,546
Total	$2,846,426	$1,423,213

[1] Both programs were initially approved by Orders in this docket issued August 13, 1975, Transmac for three years and ERI for one year and an additional two years, if successful. By Order issued October 21, 1976, the Commission approved expanded participation in the second and third years of Transmac. On December 1, 1977, the Commission approved an additional year's participation in Transmac and ERI at existing levels.

By Order issued July 5, 1978, the Commission suspended NCUC Rule R1-17(h)(4) and set the Exploration Committee's requests for hearing along with issues, denominated as Phase II of proceedings in the above docket, which were heard on September 12, 1978. By Order issued July 21, 1978, the Commission severed the requests from the remaining issues in Phase II and set the same for expedited hearing on August 29, 1978, so that a decision could be reached on these two contracts prior to the September 1, 1978, deadline.

A joint response opposing extension of the ERI, Ltd., and Transmac programs was filed on August 22, 1978, by Aluminum Company of America, Lithium Corporation of America, CF Industries, Inc., and the Brick Association of North Carolina.

The matter came on for hearing as shown above. The Commission received affidavits and testimony of the following witnesses: Calvin B. Wells, Senior Vice President, North Carolina Natural Gas Corporation; Thomas W. McCreery, Jr., Assistant Vice-President - Supply, Piedmont Natural Gas Company, Inc.; C. Marshall Dickey, Vice President - Gas Supply Services, Public Service Company of North Carolina, Inc.; Marshall Campbell, Assistant Secretary, Pennsylvania and Southern Gas Company; Glenn Rogers, Vice-President, Gas Supply, United Cities Gas Company; George S. Monkhouse, Petroleum Consultant, George S. Monkhouse and Associates, Inc.; Raymond J. Nery, Director, Gas Division, Public Staff - North Carolina Utilities Commission; Maynard F. Stickney, Chief Industrial Engineer, Badin Works, Aluminum Company of America; and

Arthur DeLeon, Manager, Energy Planning, CF Industries, Inc. At the close of the evidence, the Commission heard oral argument in lieu of briefs.

On August 31, 1978, the Commission issued a Notice of Decision in the matter, stating that the Exploration Committee's requests for extension of the Transmac and ERI programs had been approved and that a formal order would follow. A Motion for Reconsideration of the Notice of Decision was filed on September 25, 1978, by the Public Staff. On September 26 and October 2, 1978, CF Industries, Inc., and the Attorney General, respectively, filed Responses in support of said Motion.

Based upon the evidence adduced at the hearing, information contained in the written requests of the Exploration Committee, and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. The Carolinas' Exploration Committee is properly before the Commission pursuant to Rule R1-17(h) seeking extended participation by all North Carolina natural gas utilities and their customers in the ERI, Ltd., and Transmac exploration programs for the years 1978-79 and 1979-80.

2. Estimated total costs of participating in the program for the remaining two years are as follows:

	Exploration	Development
Transmac		
1978-79	$4,310,843	$1,616,564
1979-80	$4,789,825	$1,796,183
ERI, Ltd.		
1978-79	$1,361,334	$ 680,667
1979-80	$1,485,092	$ 742,546

3. Capital expenditures through June 30, 1978, have been as follows: Transmac - $9,874,997;[2] ERI, Ltd. - $2,572,428.

[2] According to the Aggregate Finding Cost Summary and Appraisal Reports prepared for the Commission by George S. Monkhouse & Associates, Inc., the $9,874,997 expenditure for the Transmac program includes a $297,692 expenditure on the J.P. Duhe, Inc., No. 1, a dry hole drilled on a prospect that is not part of the Transmac program.

4. Including future development costs, total finding costs[3] are as follows:

	Transmac	ERI, Ltd.
Proved reserves	$10,141,667	$2,720,429
Proved plus probable reserves	$10,393,330	$2,841,686
Proved plus probable plus possible reserves	$10,456,740	$2,841,686

[3] The total finding costs for the Transmac program include monies spent for untested prospects which according to the Monkhouse report "may have significant reserves that cannot be foreseen at this time." (p.2). In addition, the total finding cost for Transmac also includes cash on hand.

5. Total net equivalent Mcf reserves (future net equivalent reserves plus cumulative net equivalent reserves as of June 30, 1978)[4] are as follows:

	Transmac[5]	ERI, Ltd.
Proved reserves	3,796,575	2,633,382
Proved plus probable reserves	5,173,085	3,436,612
Proved plus probable plus possible reserves	5,899,352	3,902,760

[4] As indicated in footnote 3, there may be "significant reserves" in some of the untested prospects which could not be included in the estimated reserves above. For example, in regard to a project in Terrebonne Parish, Louisiana, the Monkhouse report states: "Although it is premature to assign reserves at this time, this prospect has great potential." (p.11H). In regard to a project in Aransas County, Texas, the report states: "An apparent multipay discovery has been made by the St. Tr. 38-1 well located in Cepano Bay. . . Unfortunately, there was not time to include these indicated reserves in our appraisal." (p.11H). In addition, potential reserves of one "sucessful" well were excluded because of the costly pipeline connection that would be necessary. (p.11). Under the current prices the needed connection does not appear economically feasible; however, with the expected escalation in the price of natural gas (resulting from the almost certain passage of the Energy Bill) the situation may change.

[5] In the hearing on August 29, 1978, Thomas W. McCreery, Jr., of Piedmont Natural Gas Company, Inc., testified, on cross-examination, as follows: ". . . One problem we have is that the Transmac program experienced in the first six to eight months the worst they have had since we have been with them. In the last month or two, they have come up with probably 90 percent of their success, and it just came at the time when Mr. Monkhouse was aware of the fact that they had discoveries but he was unable to put any reserve figures to it." (Transcript, Vol. I, p.49).

6. Finding costs per net equivalent Mcf reserves[6] as of June 1978 are as follows:

	Transmac	ERI, Ltd.
Proved reserves	$2.67	$1.03
Proved plus probable reserves	$2.01	$0.83
Proved plus probable plus possible reserves	$1.77	$0.73

[6] These figures are subject to the same variations, only compounded, as the total costs to date and estimated reserves.

7. The average finding costs per Mcf[7] for the two programs are as follows:

Proved reserves	$2.00
Proved plus probable reserves	$1.54
Proved plus probable plus possible reserves	$1.37

[7] See footnote 6 above.

8. The current 100% load factor cost of gas purchased from Transco is $1.69 per Dt.

9. The current cost of emergency gas purchased by the gas utilities under Section 2.68 of the F.E.R.C.'s Regulations is approximately $2.15 per Mcf.

10. Other potential sources of supplemental gas are synthetic natural gas (SNG) and imported liquified natural gas (LNG) both of which carry a higher cost than emergency gas.

11. The potential cost of the developed gas is reasonable in relation to possible alternate supplies of supplemental gas.

12. These exploration efforts are projected to produce additional quantities of gas for North Carolina in amounts ranging from 2% to 10% of total company supplies by the early 1980's.[8]

[8] These figures are inherently speculative due to uncertainties concerning Transco supplies, emergency gas purchases, and deliverable reserves from exploration.

13. There is reasonable prospect that investment in the ERI, Ltd., and Transmac programs will produce gas reserves deliverable to North Carolina in sufficient quantities to justify the investment made through the 1980 program years.

Whereupon, the Commission reaches the following

CONCLUSIONS

In Utilities Commission v. Edmisten, 294 N.C. 598 (1978), the North Carolina Supreme Court upheld the Commission's decision to allow the State's natural gas distribution companies to enter into joint ventures for the purpose of

obtaining additional gas supplies through exploration. The Court stated, in effect, that ratepayer participation is lawful since the rule under which the programs are conducted provides for the preservation and return of benefits thereby obtained.

The evidence in the instant proceeding indicates that we are now entering the benefit period with regard to the two programs, particularly Transmac. It was projected in 1975 that to conduct programs which would yield reserves at a reasonable per Mcf cost would require five years. Initial investments typical of such programs, together with the "learning curve" theory, tend to make front-end costs relatively high. Therefore, the finding cost per Mcf figures derived from the Monkhouse report utilizing data from an intermediate point in the program may be misleading and should be used with caution. As seen in footnote 3, supra, total finding costs to date for Transmac are possibly inflated. It appears, moreover, that the reserve figures contained in the report are conservative. Costs for certain wells are included, but not the possible resulting reserves,[9] suggesting that the finding cost figures in the Monkhouse report are probably on the high side. It should also be noted that one cannot simply compare the total dollars expended to date to the expected expenditures unless one considers the timing of the cash flow. Due to the cost of capital and the high inflation rates experienced in recent years, the total dollars involved are a mixture of 1975 dollars, 1976 dollars, 1977 dollars, and so on, which cannot logically be compared to a project cost stated in 1975 dollars.

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[9] It was stated at the hearing that information on additional reserves has been obtained from a quarterly report assembled by Transmac personnel. Using their reserve figures, which include possible reserves excluded from the Monkhouse report, the finding cost has been estimated to be about $ .81 per Mcf compared with the $2.67 per Mcf shown in Finding of Fact No. 6. While the discrepancy may not be as great as shown, the implication is clear.

The Commission's determination that the potential cost of the developed gas is reasonable in relation to possible alternate supplies of supplemental gas does not imply that such is the lowest cost gas obtainable. Given the uncertain situation with regard to the continued ability of North Carolina distributors to obtain large quantities of emergency gas under F.E.R.C. Rule 2.68, and of their industrial customers' ability to buy gas pursuant to Order No. 533, it is prudent to seek other alternate supplies. Even with the almost certain passage of the National Energy Bill and the expected availability of more pipeline gas, the history of North Carolina's dependence on a single supplier dictates a diversified approach. In addition, exploration gas may provide a hedge against the price increases which are expected to result from the national energy legislation

by eliminating the middleman (pipeline supplier) and his profit.

Having carefully weighed the evidence presented with regard to costs and benefits, the Commission concludes that the requests of the Exploration Committee in this matter should be approved as filed. While mindful of the level of surcharges borne by the ratepayers in connection with the Transmac and ERI programs, the Commission is of the opinion that an additional two years of stockholder/ratepayer participation are necessary in order to maximize both interests. Beyond 1980 program years, however, ratepayer participation should cease insofar as funding of future efforts is concerned and the utilities' participation, if any, should be funded solely by the shareholders.

The Commission further concludes that the Motion of the Public Staff, joined in by CF Industries, Inc., and the Attorney General, that the Notice of Decision herein be reconsidered should be denied, without prejudice to such further Motions or Petitions to reopen or rehear this decision that any party might file based on newly developed evidence of material changes in the basis for this decision, if accompanied by evidence of the relative cost of advance termination of either or both of the Transmac and ERI, Ltd., programs.

IT IS, THEREFORE, ORDERED:

1. That the Motion to Reconsider the Notice of Decision in this docket be, and is hereby, denied.

2. That the requests, filed June 19, 1978, by the Carolinas' Exploration Committee pursuant to NCUC Rule R1-17(h)(3), to extend the ERI, Ltd., program for an additional two years beginning October 20, 1978, and to extend the Transmac program for the second and third year of a program which began on September 1, 1977, be, and are hereby, approved.

3. That ratepayers' participation in the ERI, Ltd., and Transmac programs terminate at the end of the 1980 program years herein approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of October, 1978.

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

CHAIRMAN KOGER AND, COMMISSIONER HIPP, CONCURRING, ATTACHED.
COMMISSIONER RONEY, DISSENTS.
COMMISSIONERS HAMMOND AND FISCHBACH, DISSENTING, ATTACHED.

KOGER, CHAIRMAN, CONCURRING: With considerable reluctance, I am voting with the majority to allow the North

Carolina gas distribution companies to complete, with ratepayer participation, the last two years of the five-year exploration and development efforts in the ERI and Transmac programs. My decision was difficult because I am philosophically opposed to requiring ratepayers to participate through surcharges in speculative ventures as risky as gas exploration except under a situation where availability of continued supplies of natural gas absolutely and conclusively depends on such an exploration program. It would be difficult to demonstrate the existence of such a situation at this time. In retrospect, I believe the prior Commission, which ordered initial participation, made in good faith an unwise decision. Nonetheless, the Commissioners did not have the benefit of perfect foresight and, secondly, the legality of their decision was upheld by the North Carolina Supreme Court.

The issue before the Commission in this case, however, is not whether it is proper or prudent from a generic sense to require ratepayer participation in gas exploration, whether the total program (which includes one failed and curtailed program) is viable from a supply and economic standpoint, or whether continued participation is absolutely necessary to assure availability of gas supplies. Our decision in this instant must revolve on whether we believe it is in the best interest of the ratepayer to maintain his participation in these two programs for the remaining two years of their planned life. In other words, would the ratepayer be better off to "stay in" or "get out" of these two programs now after having been forced to "stay in" during the initial years of the programs? None of us can answer this question conclusively. One can take a conservative approach and value the gas found thus far on a proved reserves basis only and consequently demonstrate that the program will be uneconomical. Conversely, one can take an optimistic viewpoint and value the gas on total proved, probable, and possible basis and demonstrate that the gas exploration program will be reasonable and worthwhile. A "middle of the road" estimate that assigns probabilities to the probable and possible amounts results in predicted prices near the expected market rates for gas.

With some belief in the hypothesis that we have been in a learning curve mode during the first part of this program and with the expectation that a middle of the road estimate will prove valid together with statements from our independent consultant that he did not have an opportunity to impute the value of some possible reserves from recent finds into his calculations, I have reached a conclusion that the ratepayer's interest will be best protected by his staying in these two programs for the remaining two years.

As usual with any initially imprudent decision, whether it leads to wars, battles, or whatever, "there is a time to retreat and a time to retreat." In my opinion and I admit it is a close decision in my mind, I have determined the greater weight of evidence indicates the ratepayer will lose

if we retreat now or, in other words, if we end his participation in these two programs prematurely.

Notwithstanding the above comments, I believe that these two programs should continue to be closely monitored with the idea that the contracts should be canceled if the presently projected results fail to materialize and the overall "costs" of continuing the program including the consideration of any liabilities arising from early cancellation of the contract outweigh expected benefits. In that regard, I would hope that the Public Staff would undertake to review the progress of these programs on a quarterly or semiannual basis.

Robert K. Koger, Chairman

HAMMOND, COMMISSIONER, DISSENTING: Philosophical concerns, potentially high cost of gas delivered to North Carolina customers, and marginal success in reaching original goals of reducing the uncertainty of gas supply lead me to dissent from the decision of the majority to approve a two-year extension of the exploration and development ventures of the North Carolina gas distribution companies.

Common sense and economic theory suggest that the time has come for a reversal of the decision to require customers to contribute 75 percent of the financial support for these high risk endeavors. Philosophically, the right of individuals to voluntarily make decisions about where their funds will be invested should rule supreme in this case. There is reason to doubt the ability of a regulatory authority to effectively and efficiently mandate such investment decisions. No better evidence exists to support this doubt than the performance of these gas exploration programs.

There is also an unresolved question of whether a utility company should become deeply involved in high risk nonutility activities. It is my conviction that we should be very careful about approving extensive nonutility endeavors by North Carolina utility companies. The Commission should investigate the full implications of extensive vertical integration by utility companies. The advantages and disadvantages of vertical integration to the ratepayers is not clear cut in this or other instances.

The evidence in this case raises a serious question concerning the cost of gas delivered to North Carolina customers from the exploration programs. A great deal of emphasis was placed on the apparent success of the ERI, Ltd., Program. Admittedly, the ERI Program shows real promise, but a relatively small portion of the total exploration funds have gone to this program and the jury is still out on its ultimate success. Recent information suggests that finding costs are escalating for this program.

The TRANSMAC Program has not faired so well and the Carolina Program has been abandoned. A reasonable approach to evaluating the risks and uncertainties of a program of this sort would be to view it somewhat as one would view a securities portfolio. Individual projects (or securities) cannot be evaluated in isolation, but must be evaluated in terms of their marginal contribution to the performance of the portfolio. It is folly to brag about making $100 on one security in a portfolio while $1000 may have been lost on another security. A portfolio view of the gas exploration and development programs leaves too many unanswered questions to warrant continued approval of customer contributions.

A major goal expressed in the Order which initially approved a customer surcharge to support exploration efforts was that of reducing the uncertainty surrounding future gas supplies. The optimistic projection of 2 percent of total supplies by the early 1980's will hardly make a significant dent in the uncertainty of gas supplies. This 2 percent accomplishment will be achieved at a total cost of approximately $45 million at the end of the current extension. This total cost does not include the earnings (interest) on these contributions that have been foregone by the customers and stockholders over the entire exploration period. Simple compound interest at 11 percent on $45 million over a five-year period would add approximately $15 million to the total cost of these ventures. The 11 percent figure is a conservative representative of the interest the general public has to pay for retail credit.

The total stockholder equity in the three major natural gas distribution companies (North Carolina Natural, Piedmont, and Public Service) amounts to approximately $100 million. In contrast, the natural gas customers in North Carolina will have contributed about $34 million to these exploration ventures at the end of the two-year extension. The following question could be raised; "why not increase the surcharge a few more cents on each customer and let the customers buy out the stockholders?"

If we hope to achieve the stated goal, then it will be necessary to supply a larger percentage of total needs and that will require even larger assessments against the ratepayers. Are we willing to impose that huge burden on our citizens? I think not!

Related to the goal of decreasing supply uncertainty is the fact that some of the exploration funds have been expended on projects which cannot access the pipeline system that serves North Carolina. The gas flowing from these projects is being sold and will continue to be sold to someone other than North Carolina customers. This raises many questions about pricing the gas, distributing the benefits, and whether the central goal of helping North Carolina is being pursued.

In summary, the evidence appears to lend strong support to an immediate cessation of mandatory customer contributions to these programs.

Leigh H. Hammond, Commissioner

FISCHBACH, COMMISSIONER, DISSENTING: I disagree with the decision of the majority which authorizes continued 75% ratepayer participation for the next two years in the natural gas exploration and development programs of Transmac and ERI in amounts of $12,513,415 and $4,269,639, respectively, for a total commitment of nearly $17 million.

There is no doubt as to the desirability of having another source of natural gas supply to eliminate North Carolina's total dependence on Transco, who has fallen short of providing needed gas supplies by at least 50% over the last four years.

The question is whether the potential supply at issue would be at a reasonable price. To estimate the cost of E&D gas, one only has the performance of the programs in prior years as a guide. At the hearing, Public Staff Witness G.S. Monkhouse presented his report which showed that as of June 1978, finding costs for Transmac and ERI are $1.77 and $0.73/Mcf, respectively, based on proved plus probable plus possible reserves (the most optimistic measure); or $2.67 and $1.03/Mcf, respectively, based on proved reserves (the more reliable measure). To these figures must be added somewhere between 25¢ and 75¢/Mcf to cover the additional charges on E&D gas for delivery to the Transco pipeline, state severance taxes, etc. This yields a range for the Transmac gas of $2.00 to $3.50/Mcf, and $1.00 to $1.80/Mcf for ERI.

Because gas exploration is inherently speculative, it is informative to look at the history of these programs.

In August 1975, the Commission approved the Transmac program for three years. The stated finding cost was 24¢/Mcf, assuming expenditures of $6,187,500 and expected gas volumes of 25,650,000 Mcf. In late 1976 increased expenditures were approved, still citing a finding cost of 24¢/Mcf but based on anticipated gas volumes of 15,317,010 Mcf per program year. According to the Monkhouse report, the finding cost is now $1.77 to $2.67/Mcf. Proved plus probable plus possible gas reserves are 4,616,625 Mcf, less than one-fifth the quantity originally anticipated and even less of the quantity cited in late 1976. Expenditures to date are $9,874,997, approaching double the amount originally requested.

In August 1975, the Commission approved the ERI program for one year. The stated finding cost was 29¢/Mcf, assuming expenditures of $1,274,993 and expected gas volumes of 4,352,900 Mcf. In early 1977, the program was extended for another year, citing a finding cost of 9¢ to 39¢/Mcf and

proved plus probable plus possible gas reserves of 15,927,746 Mcf. According to the Monkhouse report, the finding cost is now $0.73 to $1.03/Mcf. Proved plus probable plus possible gas reserves are 2,937,282 Mcf, about three-quarters the quantity originally expected but about one-fifth the quantity cited in early 1977. Expenditures to date are $2,572,428, double the amount originally requested.

And has the performance of the other North Carolina gas exploration programs, not at issue in this hearing, been any better?

In June 1975, the Commission approved the Graham-Chandler program for three years (now called the Carolina Gas Exploration Company). The stated finding cost was 26.4¢/Mcf, assuming expenditures of $10,000,000 for exploration and $4,600,000 for development, and expected gas volumes of 55,400,000 Mcf. At this time, after investing $9,372,000 our gas utilities recommend abandoning this program because the finding cost is $33 to $57/Mcf. According to the Monkhouse report, the proved plus probable plus possible gas reserves are 226,812 Mcf, less than one-half a percent of the quantity originally anticipated.

In August 1975, the Commission approved the Transco/Mosbacher program for one year. The stated finding cost was 31¢/Mcf, assuming expenditures of $2,406,250 and expected gas volumes of 7,777,838 Mcf. In July 1976, the Commission approved another year of this program, citing a finding cost of 29¢ to 58¢/Mcf; and in early 1977 the program was extended for three additional years. According to the Monkhouse report, the finding cost is now $1.47 to $2.07/Mcf. Proved plus probable plus possible gas reserves are 3,287,395 Mcf, less than half the quantity originally anticipated. Expenditures as of May 1978, were $6,591,050, almost triple the amount originally requested.

From the above, it is clear to me that gas exploration has not been a prudent investment for North Carolina ratepayers. Considering the Monkhouse report, which in my opinion is the first source of credible information the Commission has seen, the Transmac program should not have been approved by this Order. Comparing the ERI costs of $1.00 to $1.80/Mcf with the current cost of $2.15/Mcf for FERC 2.68 gas (E gas), indicates that the ERI program is prudent assuming we can rely on the finding cost data. With this in mind, I believe the most the Commission should have authorized for ERI was one additional year at an expenditure of $2 million, not two years at over $4 million.

It must be emphasized that the Transmac and ERI programs are not new proposals; each has been in operation since 1975 and over $12 million has been invested. In my opinion, this is sufficient time and money to allow a proper assessment. Further, to have disapproved the requested extensions would not have resulted in abandoning gas reserves already

established, but would have terminated additional exploration.

It is noteworthy that when the gas exploration programs were launched in 1975, they were supported, or at least not opposed, by all parties but one, whose objection was only to the mandatory nature of the surcharge. Today, only the utilities support the programs; all parties representing ratepayers are in opposition.

Robert Fischbach, Commissioner

HIPP, COMMISSIONER, CONCURRING: Following the hearing in this proceeding on August 29, 1978, I voted with the majority on August 31, 1978, on the last day in which the subject Transmac program could be signed for the final two years of the second phase of the program, to authorize the final two years of the Transmac and ERI, Ltd., drilling programs. On August 31, 1978, the Commission issued its Notice of Decision to that effect, authorizing the continuation of these two programs for the final two years, with this formal Order to follow.

At the time of the vote in this docket on August 31, 1978, the forecast of the gas supply for North Carolina for the 1978-79 winter was extremely discouraging, with estimates of curtailments as severe as those in the preceding 1977-78 winter when North Carolina was faced with the purchase of large quantities of high priced emergency gas. The continued availability of E gas into the future was not assured. The passage of the Federal Energy Act relating to natural gas was not assured. The Transmac and ERI, Ltd., programs had been in effect for three years and the exploratory wells had developed evidence of gas reserves which would not be realized unless and until the final two years' development wells were drilled determining the quantity of gas to be found in the program. The strong likelihood existed that a vote to reject the final two years of the exploration program would result in the ratepayers losing their initial years' investments in the contracts for failure to continue with the final two years, when there was evidence of reserves which could produce sorely needed gas for North Carolina. For those reasons, I concluded that the only course of action which North Carolina could take under the circumstances was the precautionary course of action to continue seeking additional gas supplies, to the limited extent of completing the final two years of the programs then at issue.

I view exploration and drilling programs for natural gas utilities as being similar in purpose to research and development programs for other utilities or industries. They are a necessary operating expense if the industry is to prepare properly for future service to its customers. The North Carolina Supreme Court has expressly affirmed this position. Utilities Commission v. Edmisten, 294 N.C. 598, 607 (1978). The present dependence of the North Carolina

natural gas distribution companies upon Transco as the sole source of supply illustrates the need of the North Carolina companies to develop alternate sources of natural gas, including as the primary option available at this time, other than emergency gas, the exploration and drilling program for company-owned (or in this case, company- and ratepayer-owned) gas supplies. It is recognized that research programs do not produce immediate new earnings to the company or the party conducting the research. The same is true of exploration and drilling programs. Some experiments or programs will be successful and others will not be successful by the very nature of the activity. In this case, the unproductive program has now been identified and discarded (Carolina program), and the three programs now being continued (McMoran, Transmac and ERI, Ltd.) offer varying degrees of prospective gas discoveries and development. The estimated cost of the Transmac and ERI, Ltd., programs to the ratepayers is 6.8¢ per Mcf, calculated from the customers' share of the Public Service cost, divided by present anticipated gas volumes. At the average annual use for residential customers of 100 Mcf, this is $6.80 per year, or 57¢ per month, for the average residential customer's share of the drilling and exploration program. North Carolina is still not so clearly and adequately supplied with natural gas that it can discard this essential research function, considering the cost of $6.80 a year against the rapidly escalating residential rate for 100 Mcf of gas of approximately $350.00 per year. This rate will rise substantially if the present federal deregulation plan is passed. This program is more than an investment by a disinterested party seeking a return from a financial point of view. It is an exploration program in the nature of research to prevent the calamitous consequences of a failing gas supply which would make obsolete the residential customers' home heating plant and cause a conversion to far more costly heating fuels if Transco's gas supply is further curtailed.

Exploration and drilling is a recognized practice among the progressive gas distribution companies in other states, and some of them already have company-owned reserves as a substantial segment of their gas supply. The North Carolina Utilities Commission has gone an important step beyond other state commissions in this respect in segregating the expense of exploration into a customer surcharge and a stockholder contribution and protecting the beneficial interest of the ratepayers in all gas and other revenues flowing from their contribution to the program. Additionally, the Legislature has exempted this surcharge from the natural gas franchise gross receipts tax. For these reasons, I consider the continuation of these two programs for the final two years at 57¢ a month to be reasonable and necessary in the public interest and in the interest of the customers.

Since August 31, 1978, there have been measurable changes in the outlook for the gas supply potentially available for North Carolina. Transco has restored a small part of the

curtailments for the coming winter, with an estimate of additional restorations for the 1979 summer. Settlement discussions in the Federal Energy Regulatory Commission on Transco's curtailment program have indicated some additional supplies of natural gas to North Carolina from proposed revisions in the Transco curtailment plan. There now appears a much stronger likelihood that the Federal Energy Act will be passed with some settlement of the natural gas issues, which could make more interstate gas available to North Carolina. None of these forecasts or estimates are yet certain.

When and if substantial evidence indicates that the North Carolina gas supply is measurably improved over that known on August 31, 1978, I would support a review of the final two years of the Transmac and ERI, Ltd., programs to determine under what circumstances the North Carolina distribution companies could withdraw their participation or the ratepayer participation in the programs. The Transmac program began the second year on September 1, 1978, and the ERI, Ltd., final two years begins October 20, 1978. The Transmac program has presumably been contracted for, and the ERI, Ltd., program has been authorized by the Commission's Notice of Decision of August 31, 1978. If the companies were ordered to terminate participation in these programs, the damages or penalties resulting therefrom are not known and are not shown in the Motions for Reconsideration filed in this docket. I would be reluctant to cancel these contracts if it would result in losses and damages jeopardizing the existing investment by the ratepayers in the initial years' exploratory drilling of these programs. I would also not want to terminate these programs until some tangible evidence is available that the present encouraging report for gas supply in North Carolina is realistic and will not evaporate as the cold weather sets in, as it has so many times in the last six years.

If any party desiring further consideration of this decision can show that these two problems have been solved, by appropriate pleadings or affidavits, or if the Commission on its own motion can make such determination, I would agree to set the proceedings herein for rehearing and reconsideration on continuation of the final two years of the Transmac and ERI, Ltd., programs.

Edward B. Hipp, Commissioner

DOCKET NO. G-100, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rulemaking Proceeding for Curtailment of Gas Service Due to Gas Supply Shortage	) ORDER AMENDING ORDER) OF DECEMBER 28, 1977)

BY THE COMMISSION: On December 28, 1977, the North Carolina Utilities Commission issued an Order in the above-captioned docket requiring the gas utilities to file certain periodic reports within 30 days of the last day of each reporting period. On January 31, 1978, Piedmont Natural Gas Company, Inc., filed a motion requesting the Commission to amend said Order to provide 45 days rather than 30 days after each reporting period for filing the reports specified. Upon consideration of the grounds set forth in Piedmont's Motion, the Commission is of the opinion that good cause has been shown for amending its Order as requested insofar as Piedmont is concerned.

IT IS, THEREFORE, ORDERED that as to Piedmont Natural Gas Company, Inc., decretal paragraphs 1, 2, and 5 of the Order herein issued December 28, 1977, be, and are hereby, amended to require filing of the specified reports within 45 days after the last day of the month for the reporting month.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of February, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Tuesday, 10 October 1978, at 10:00 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, John W. Winters, and Edward B. Hipp

APPEARANCES:

For the Respondents:

T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, 1400 Wachovia Building, Greensboro, North Carolina 27402
For: United Cities Gas Company, Pennsylvania and Southern Gas Company

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, P.O. Drawer U, Greensboro, North Carolina 27402
For: Piedmont Natural Gas Company

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

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

For the Interveners:

Keith R. McCrea, Grove, Jaskiewiez, Gilliam & Cabert, Attorneys at Law, 1730 M St., N.W., Washington, D.C. 20036
For: Owens-Illinois, Inc.

Charles C. Meeker, Sanford, Adams, McCullough & Beard, P.O. Box 389, Raleigh, North Carolina 27602
For: C F Industries, Inc.

For the Public Staff:

Robert F. Page and Dwight W. Allen, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On 31 July 1978 Piedmont Natural Gas Company, Inc. (Piedmont), filed a Motion that the Commission review its order in the above-captioned docket dated 25 October 1977 and amend such order so as to modify Commission Rule R6-19.2 - Priorities for Curtailment of Service, by placing commercial boiler fuel requirements between 50 and 300 Mcf per day in NCUC Priority 2 and industrial boiler fuel requirements between 50 and 300 Mcf per day in NCUC Priority 3 consistent with the curtailment plan implemented by the Federal Power Commission (FPC) [now the Federal Energy Regulatory Commission (FERC)] in its Opinion Nos. 778 and 778-A. Such natural gas requirements are now in NCUC Priority 6.

By order issued 11 September 1978 the Commission set Piedmont's Motion for oral argument on 10 October 1978. A Motion requesting delay of the hearing and oral argument until after 1 November 1978 was filed by the Public Staff on 29 September 1978. The Public Staff Motion was denied by order issued 4 October 1978.

The matter came on for hearing before the Commission as shown above. Based upon the arguments presented by counsel, and the entire record in this docket, the Commission finds and concludes as follows:

FINDINGS OF FACT

1. In its order of 25 October 1977 in this docket, the Commission revised its Rule R6-19.2 - Priorities for Curtailment of Service, stating in its Finding of Fact Number 4 that the curtailment priorities implemented for North Carolina should be "reasonably consistent with the priorities of curtailment set forth in [FPC] Opinion No. 778-A. . ." Opinion No. 778-A establishes a permanent curtailment plan for the State's natural gas supplier, Transcontinental Gas Pipe Line Corporation (Transco).

2. In a companion order, also dated 25 October 1977, in Docket No. G-100, Sub 33, the Commission authorized and directed the five North Carolina gas distribution companies to purchase sufficient supplies of emergency gas pursuant to FPC Regulation 2.68 to serve their NCUC Priority 1 and 2 customers under design weather conditions.

3. Under Rule R6-19.2, as revised, boiler fuel requirements between 50 and 300 Mcf per day for both commercial and industrial users were placed in NCUC Priority 6.1.

4. Commercial boiler fuel between 50 and 300 Mcf per day is in 778-A Priority 2, and industrial boiler fuel between 50 and 300 Mcf per day is in 778-A Priority 3.

5. Since the issuance of the above orders, sales to 778-A Priority 2 and 3 customers in North Carolina have been substantially less than they would have been had the Commission not placed boiler fuel between 50 and 300 Mcf per day in Priority 6.1.

6. In State of North Carolina v. F.E.R.C., D.C. Cir. No. 76-2102 (July 13, 1978), the United States Court of Appeals for the District of Columbia Circuit required that the FERC reconsider the curtailment plan implemented under FPC Opinion Nos. 778 and 778-A but did not object to the FPC's curtailment categories, stating that "[t]he priority rankings adopted by the Commission in Opinion 778 are not the problem here." (Opinion p. 20). The Court of Appeals further stated that Transco's curtailment plan contained two defects, one of which was that it was based on stale base period data, and remanded the case to the FERC with instructions to cure such defects. Settlement proceedings in the matter are now in progress.

CONCLUSIONS

In October of 1977 when the Commission revised its Rule R6-19.2, North Carolina's five natural gas distribution

companies were faced with ever-deepening curtailment of pipeline supplies from Transco and the necessity of purchasing high-cost supplemental gas in order to serve their customers with no alternative fuel capability for the coming winter. Considering the level of curtailment as well as the 778-A priority categories, specific North Carolina markets, and the national administration's energy proposals, the Commission was of the opinion that to require the companies to purchase even greater supplemental supplies, chiefly emergency gas, for the purpose of serving boiler fuel customers with alternate fuel capability could not be justified. The Commission is now of the opinion that, in light of recent developments at the federal level, such disparity between NCUC and 778-A priority classifications should not continue. An updated base period for the Transco curtailment plan would fail to include sales, which otherwise might have been made, in 778-A priorities 2 and 3, thus affecting adversely the amount of gas to which North Carolina ultimately is entitled. For this reason, the Commission concludes that the relief requested by Piedmont in its Motion for further modification of Rule R6-19.2 should be granted.

IT IS, THEREFORE, ORDERED that Commission Rule R6-19.2 - Priorities for Curtailment of Service - be, and is hereby, modified to read in accordance with Appendix A attached hereto.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of October, 1978.

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

Appendix A

Rule R6-19.2. Priorities for curtailment of service. - (a) In the event the total volume of natural gas available to a North Carolina retail gas distribution utility is insufficient to supply the demands of all the customers of that utility, the utility shall provide gas service to individual customers in accordance with the following order of priorities:

Priority 1. Residential. Essential Human Needs With No Alternate Fuel Capability. Commercial less than 50 Mcf/day.

1.1 Residential requirements and essential human needs with no alternate fuel capability.

1.2 Commercial less than 50 Mcf/day.

Priority 2. Industrial Less Than 50 Mcf/day. Process, Feedstock and Plant Protection With No Alternate Fuel Capability. Large Commercial requirements of 50 Mcf or more

per day except for large commercial boiler fuel requirements above 300 Mcf/day.

2.1 Industrial less than 50 Mcf/day.

2.2 Commercial Between 50 and 100 Mcf/day.

2.3 Commercial greater than 100 Mcf/day, nonboiler use.

2.4 Commercial greater than 100 Mcf/day, with no alternate fuel capability.

2.5 Industrial process, feedstock and plant protection between 50 and 300 Mcf/day, with no alternate fuel capability.

2.6 Industrial process, feedstock and plant protection between 300 and 3000 Mcf/day, with no alternate fuel capability.*

*Corrected by Order in Docket No. G-100, Sub 24, on October 18, 1978.

2.7 Industrial process, feedstock and plant protection greater than 3000 Mcf/day, with no alternate fuel capability.

2.8 Commercial over 100 Mcf/day (excluding commercial Priorities 2.3 and 2.4 and boiler fuel requirements over 300 Mcf per day).

Priority 3. All other industrial requirements not greater than 300 Mcf per day.

3.1 Industrial nonboiler between 50 and 300 Mcf per day.

3.2 Other industrial between 50 and 300 Mcf per day.

Priority 4. Nonboiler Use Greater Than 3000 Mcf/day.

Priority 5. Nonboiler Use Greater Than 3000 Mcf/day.

Priority 6. Boiler Fuel requirements of more than 300 Mcf per day but less than 1,500 per day.

Priority 7. Boiler Fuel Requirements Between 1500 and 3000 Mcf/day.

Priority 8. Boiler Fuel Requirements Between 3000 and 10,000 Mcf/day.

Priority 9. Boiler Fuel Requirements Greater than 10,000 Mcf/day.

(b) Curtailment Among Priority Classes. - Gas shall not be considered available for any priority class until requirements for emergency gas sales, current demands of

higher priority classes, and necessary storage for protection of service from Priority 1 to 2.4 and system integrity are met. The curtailment priorities listed in paragraph (a) are arranged with the highest priority listed first; i.e., Priority 9 is the first category to be curtailed, followed by Priorities 8, 7, 6, 5, 4, 3, 2, and 1, in that order.

If curtailment exists within Priorities 5 through 3, a pro rata allocation will be utilized until 35% curtailment exists for all customers in Priorities 5 through 3 at which time customers will be curtailed in accordance with the priority classifications in a normal manner (curtailment of all customers in 5 prior to curtailment of any customers in 4); also, if curtailment exists within Priorities 2.5, 2.6, and 2.7, a pro rata allocation will be utilized until 35% curtailment exists for all customers in Priorities 2.5 through 2.7, at which time customers will be curtailed in accordance with the priority classifications as usual.

All customers within a priority class must be completely curtailed prior to the curtailment of any customer in a higher priority except for emergency gas service or as described in the foregoing.

(c) Curtailment Within a Priority Class. - Except as herein otherwise provided, in the event it is not necessary to completely interrupt all customers within a priority class, each customer within that class shall, to the extent practicable, be curtailed on a pro rata basis for the season (winter season - November 1 through March 31 and summer season - April 1 through October 31).

(d) Curtailment of Emergency Service. - In the event that gas supplies are not sufficient to support requests for emergency gas service from customers, such service shall be curtailed according to the above priorities. Within a priority class, emergency gas service shall be supplied on a first-request basis.

(e) Initial Base Period. - Peak day volumes are determined by dividing the highest monthly consumption during the 12 months' period by the number of days in the billing cycle. For Priorities 1 through 5, the period is July 1, 1976, through June 30, 1977. For Priorities 6 through 9 the period is May 1, 1972, through April 30, 1973.

(f) Updated Base Period. - During July and August of succeeding years, consumption for each customer in Priorities 1 through 5 for the 12 months ending June 30 of such year will be reviewed, and if it is found that the customer increased his consumption to the point it would place him in a lower priority (e.g., 2.5 to 2.6) during any two months, the customer will be automatically reclassified to the lower priority as of September 1.

(g) Reduced Consumption. - Any customer in Priority 1 through 5 who permanently reduces his consumption to the point that it would place him in a higher priority (e.g., 2.6 to 2.5) can make a written request to the company and, upon proof that the consumption has, in fact, been reduced, the customer will be reclassified effective on the following September 1.

(h) Definitions.

Residential: Service to customers which consists of direct natural gas usage in residential dwelling for space heating, air conditioning, cooking, water heating and other residential uses.

Commercial: Service to customers engaged primarily in the sale of goods or services, including institutions and governmental agencies, for uses other than those involving manufacturing or electric power generation.

Industrial: Service to customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power.

Plant Protection Gas: Minimum quantities required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of an alternate fuel. This includes the protection of such material in process as would otherwise be destroyed, but shall not include deliveries required to maintain plant production.

Feedstock Gas: Natural gas used as a raw material for its chemical properties in creating an end product, including atmospheric generation.

Process Gas: Gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

Boiler Fuel: Gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity.

Alternate Fuel Capabilities: A situation where an alternate nongaseous fuel could have been utilized whether or not the facilities for such use have actually been installed.

Essential Human Needs: Hospitals, nursing homes, orphanages, prisons, sanitoriums and boarding schools, and gas used for water and sewage treatment.

Emergency Service: Service which if denied would cause shut down of an operation which in turn would result in plant closing.

DOCKET NO. G-100, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Changes in Filing of Periodic Reports Pursuant Order Modifying North Carolina Priority Classification	)))	ORDER REQUIRING UPDATING IN PERIODIC FILINGS

BY THE COMMISSION: On October 25, 1977, the North Carolina Utilities Commission issued an Order in Docket No. G-100, Sub 24 revising the North Carolina Priority Classification Rule R6-19.2. Pursuant this October 25, 1977, Order periodic reports filed by the gas utilities were revised to reflect the changes in the priority system. The Commission did by Order dated October 11, 1978, again revise the North Carolina Priority Classification but failed to incorporate these priority changes into the periodic reports as required in the December 28, 1977, Order.

The Commission finds that the revisions in the priority classification require changes in the filing of periodic reports which are required to be filed by the Commission's Order dated October 25, 1977. Priority 2.8 should be included as a new priority in the periodic reports, and Priority 6.1 should be excluded in the periodic reports since customers in this priority were moved to either Priority 2.8 or 3. The annual report required by October 31 of each year pursuant to the Commission Order dated December 28, 1977, requiring sales by priority should reflect the inclusion of Priority 2.8 and the exclusion of Priority 6.1.

IT IS, THEREFORE, ORDERED:

That the October 31 annual report of sales by priorities and the monthly reports as shown in Exhibits C and D shall be filed in accordance with the current North Carolina Utilities Commission Priority Classification as established by Order dated October 11, 1978, by each gas utility.

BY ORDER OF THE COMMISSION.

This the 27th day of November, 1978.

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

NOTE: For Exhibits C and D, see the official Order in the Office of the Chief Clerk.

DOCKET NO. G-100, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Request by the North Carolina Natural Gas Operators Subject to Jurisdiction Under G.S. 62-50, for Waiver to the January 1, 1978, Deadline for Installing Pipeline Markers in Class 3 and 4 Locations	ORDER APPROVING WAIVER REQUEST

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. On March 21, 1975, Section 192.707, of Title 49 DFR, Line Markers for Mains and Transmission Lines, was amended effective April 21, 1975. The purpose of this amendment was to alleviate a major cause of failures in gas pipelines: interference with pipelines by persons outside the gas pipeline industry conducting excavation-related activities.

The amendment to Section 192.707 requires each natural gas operator to install line markers and maintain such markers as close as practical over each buried main and transmission line at each crossing of a public road, railroad, and navigable waterway. Such markers are to have specific wording with a specified size of lettering. The amendment provides a deadline of January 1, 1978, for markers to be installed on pipelines installed prior to April 21, 1975. Exceptions were made to the line marker requirements on buried mains and transmission lines in Class 3 and 4 locations (residential and downtown areas) where placement of a marker was impractical or where a program for preventing interference with underground pipelines is established by law.

The Commission's Pipeline Safety Section has been working, for some time, toward the establishment of a statewide "One Call System" whereby any person planning excavation could call one toll free number and this "System" would notify all members who have underground facilities located in the area of planned excavation. The members would then locate and mark their facilities prior to excavation. The Commission has encouraged all regulated utilities, electric and telephone membership coops, and municipal governments to join together and form such a system. Recent developments through the North Carolina Utilities Coordinating Committee have been encouraging. A Board of Directors representing all utilities and municipal city governments has been

appointed and by-laws for the "One Call System" have been drawn up. Bids for a contractor operated system should be received within the next few months with the anticipated start-up date for operation by mid-1978.

In December 1977 the Commission sent a letter to all public utilities, municipalities operating gas and electric facilities, and electric and telephone membership coops, encouraging participation in the "One Call System." Responses to the above letter have been excellent.

In addition to the "One Call System," the Pipeline Safety Section has drafted a proposed bill for presentation in the 1979 Session of the General Assembly. A copy of this Bill, marked Appendix A, is attached.

Through endorsement by the public utilities, municipal city governments, electric and telephone membership coops, and the contractors association enactment of the proposed bill seems assured. Such a bill would complement the "One Call System" by requiring notification prior to excavation with a penalty provision should notification not be given prior to excavation.

Due to the recent developments in organizing a statewide "One Call System" and the proposed legislation requiring notification prior to excavation, the natural gas operators have petitioned the Commission to waive certain parts of Title 49, Part 192.707, of the Code of Federal Regulations - Line Markers for Mains and Transmission Lines. In the waiver requests, the operators state that they are in compliance with the provisions of Part 192.707, in all installations made after April 21, 1975, and on all mains installed prior to April 21, 1975, in Class 1 and 2 locations. Spot check investigations by the Pipeline Safety Section confirm this.

The operators have determined that the most desirable solution for the marking requirements in Class 3 and 4 locations is option (b) (1) (ii) of 192.707, which is the enactment of a State law preventing interference with underground pipelines. In the operators' opinion, this option is more effective in preventing damage and is much less burdensome financially. The following is an estimate of the number of markers which otherwise would be required and the cost to each operator.

Operator	No. of Markers	Cost
N.C. Gas Service	1,126	$ 31,000
N.C. Natural Gas	12,853	128,530
Piedmont Natural	45,000	225,000
Public Service	45,000	900,000
Greenville	1,280	32,000
Lexington	300	7,000
Monroe	355	16,000
Wilson	1,059	26,475

These figures are estimates for the purchase of the signs and installation and do not include the cost of maintaining destroyed markers.

The operators have requested an extension of the January 1, 1978, effective date for marking mains in Class 3 and 4 locations on mains installed prior to April 21, 1975. An extension time until April 30, 1979, will satisfy the requirements for legislative action, and an additional extension until December 31, 1979, will allow for the procurement and installation of the necessary markers should the General Assembly not pass the proposed bill.

After due consideration of the request from the natural gas operators in North Carolina for a waiver of the January 1, 1978, deadline for marking requirements on mains installed prior to April 21, 1975, in Class 3 and 4 locations, the Commission makes the following

FINDINGS AND CONCLUSIONS

1. That the natural gas operators in North Carolina are in compliance with the amendment to 49 CFR, Part 192,707, requiring marking of all mains and transmission lines installed prior to April 21, 1975, in Class 1 and 2 locations.

2. That the Commission agrees with the operators and the Office of Pipeline Safety operations that carrying out programs other than line marking would be much more effective in reducing the number of accidents caused by outsiders. Line markers are only a partial solution to preventing underground damage. Programs which are enforceable under law against outsiders and provide information as to the location of underground pipelines are probably the best means of reducing outside damage. Enactment of the proposed bill and the statewide "One Call System" will accomplish this.

3. That after the effective date of the amendment to 192.707, the operators and the Commission had insufficient opportunity to prepare and effectively present an underground damage prevention bill during the period when the North Carolina General Assembly was last in session.

4. That an extension of the deadline requirement from January 1, 1978, until April 30, 1979, will not be inconsistent with the purpose of Section 192.707 (b)(1)(ii), which is to give operators time and incentive to seek enactment of pipeline damage prevention laws.

5. That if by April 30, 1979, a bill for preventing underground damage is not passed by the General Assembly, an additional extension until December 31, 1979, should be allowed for the operators to procure and install the markers.

IT IS, THEREFORE, ORDERED:

1. That the deadline of January 1, 1978, for marking prior to April 21, 1975, be extended until April 30, 1979.

2. That if by April 30, 1979, the North Carolina General Assembly has not passed legislation requiring notification prior to excavation, the gas operators shall obtain markers and install and maintain such markers as close as practical over each buried main and transmission line, subject to the exemptions listed in 192.707 (b), at each crossing of a public road, railroad, and navigable waterway in Class 4 and 7 locations by December 31, 1979.

3. That this Order shall be transmitted to, and shall become effective upon notice of acceptance by, the Secretary of the Department of Transportation and shall constitute written notice of the intent of this Commission to grant the waiver requested by the North Carolina natural gas operators.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

AN ACT

Relating to the prevention of negligent or unsafe excavation or demolition operations resulting in damage to underground utilities.

Be it enacted by the People of the State of North Carolina, represented in the General Assembly of North Carolina.

Section 1. This Act may be cited as the "Underground Utility Damage Prevention Act."

Section 2. Definitions as used in this Act:

(1) "association" means a group of public utilities or their representatives formed for the purpose of receiving and giving notice of excavation activity within the State of North Carolina.

(2) "damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, and the partial or complete severance of an underground utility;

(3) "demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives;

(4) "excavate" or "excavation" means an operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and including augering, backfilling, digging, ditching, drilling, grading, plowing, pulling-in, ripping, scraping, trenching, and tunneling, but not including the tilling of soil for agricultural purposes;

(5) "mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, and other equipment used for plowing in cable or pipe;

(6) "person" means any individual; any corporation, partnership, association, or any other entity orgainzed under the laws of any State; any subdivision or instrumentality of a State; and any employee, agent, or legal representative thereof;

(7) "utility" means any line, system, or facility used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum and petroleum products, hazardous liquids, water, steam, and sewerage underground.

(8) "operator" means any person who owns or operates a utility; and

(9) "working day" means every day, except Saturday, Sunday, and national and legal State holidays.

Section 3. (Excavation and Demolition Permits.) A permit issued pursuant to law authorizing excavation or demolition operations, shall not be deemed to relieve a person from the responsibility for complying with the provisions of this Act.

Section 4. (Prohibition.) Except as provided in section 9, no person may excavate in a street, highway, public space, a private easement of an operator, or near the location of a utility installed on the premises of a customer served by such utility, or demolish a building without having first ascertained in the manner prescribed in sections 6 and 8, the location of all underground utilities in the area that would be affected by the proposed excavation of demolition.

Section 5. (Filing Requirements of Utility Operators.) (a) No later than 30 days before the effective date of all other sections of this Act, each operator having underground utilities in North Carolina, shall file with the (clerk of the county or the clerk of each county in which these

utilities are located) a list containing the name of every city, village, township, and section within the township in the county in which it has underground utilities (including those utilities that have been abandoned in place by the operator but not yet physically removed), the name of the operator and the name, title, address, and telephone number of its representative designated to receive the written or telephonic notice of intent required by section 6.

(b) Changes in any of the information contained in the list filed under section 5 (a) shall be filed by the operator with the (clerk of the county or the clerk of each county in which these utilities are located) within five working days of the change.

Section 6. (Notice of Intent to Excavate or Demolish.) (a) Except as provided in section 9, before commencing any excavation or demolition operation designated in section 4, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three, but not more than ten full working days

1. On each operator who has filed a list required by section 5 with underground utilities located in the proposed area of excavation or demolition; or

2. If the proposed area of excavation or demolition is served by an association provided for in section 7, on such association and on each operator who has underground utilities in the proposed area of excavation or demolition that is not receiving the services of the association; provided, where demolition of a building is proposed, operators shall be given reasonable time to remove or protect their utilities before demolition of the building is commenced.

(b) The written or telephonic notice required by section 6 (a) must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the location of the proposed excavation or demolition, and whether or not explosives are to be used.

(c) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operators and association notified to document compliance with the requirements of this Act.

(d) Nothing in this Act shall apply to any excavation on private property done by the owner of the property for his/her own purposes by use of hand tools.

Section 7. (Operator Associations.) Operators may form and operate an association providing for mutual receipt of section 5 notifications of excavation or demolition operations in a defined geographical area. An association that provides such service on behalf of operators having underground utilities within North Carolina shall file with the (clerk of the county or the clerk of each county in which those utilities are located) the telephone number and address of the association, a description of the geographical area served by the association, and a list of the names and addresses of each operator receiving such service from the association.

Section 8. (Response to Notice of Intent to Excavate or Demolish) Each operator or designated representative (including as association established in accordance with section7) notified in accordance with section 6 shall, not less than two working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator or designated representative), make available by use of maps when appropriate, the following information to the person responsible for the excavation or demolition:

(1) The approximate location and description of all of its underground utilities which may be damaged as a result or the excavation or demolition;

(2) The location and description of all utility markers indicating the approximate location of the underground utilities; and

(3) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including, providing adequate temporary markings indicating the approximate location and depth of the underground utility in locations where permanent utility markers do not exist.

For purposes of this section the approximate location of underground utilities is defined as a (strip of land at least 3 feet wide but not wider than the width of the utility plus 1 1/2 feet on either side of the utility.)

Section 9. (Emergency Excavation or Demolition.) Compliance with the notice requirements of section 6 is not required of persons responsible for emergency excavation or demolition to ameliorate an imminent danger of life, health, or property, provided, however, that such persons give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area (or to an association provided for in section 6, that serves an operator) where such excavation or demolition is to be performed and request emergency assistance from each operator so identified in locating and providing immediate protection to its underground utilities.

An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedures under section 6 and 8 can be fully complied with.

Section 10. (Precautions to Avoid Damage.) In addition to the notification requirements of section 6, each person responsible for any excavation or demolition operation designated in section 4 shall -

(1) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;

(2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility; and

(3) Provide such support for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities;

Section 11. (Excavation or Demolition Damage.) (a) Except as provided by section 11(b), each person responsible for any excavation or demolition operation designated in section 4 that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(b) Each person responsible for any excavation or demolition operation designated in section 4 that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator, police and fire departments, and take any other action as may be reasonably necessary, to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire departments.

Section 12. (Civil Penalties.) Any person who violates any provision of this Act shall be subject to a civil penalty of not to exceed ($1,000) for each such violation. Actions to recover the penalty provided for this section shall be brought by the (State's Attorney General) at the request of any person in the (superior court) in Wake County or the (county) in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. All penalties recovered in any such actions shall be paid into the (general fund) of the State. This Act does not affect any civil remedies for personal injury

or property (including underground utilities) damage except as otherwise specifically provided for in this Act.

Section 13. (Severability.) If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 14. (Effective Date.) This Act is effective (120) days after the date of its enactment, except for the filing requirements of section 5 which are effective sixty (60) days after enactment of this Act.

DOCKET NO. G-100, SUB 36

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Amendment to NCUC Form G-1,	)	ORDER MODIFYING NCUC FORM G-1,
Rate Case Information	)	RATE CASE INFORMATION REPORT
Report - Gas Companies, to	)	- GAS COMPANIES, TO INCLUDE
Include Lead-Lag Study	)	LEAD-LAG STUDY

[The text of this Order is repeated in E-100, Sub 33, with the exception of the title and Ordering Paragraph.]

IT IS, THEREFORE, ORDERED that NCUC Form G-1, Rate Case Information Report - Gas Companies, Section C - Data Request, is hereby amended to include the following:

Item No. 38. A properly prepared, complete, detailed lead-lag study for the test-year for total Company and North Carolina operations including all workpapers in support thereof (3 copies required).

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of October, 1978.

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

DOCKET NO. P-100, SUB 44; DOCKET NO. P-55, SUB 767
DOCKET NO. P-42, SUB 89; DOCKET NO. P-120, SUB 4
DOCKET NO. P-118, SUB 10; DOCKET NO. P-10, SUB 367

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Complaints from Telephone	)	ORDER SETTLING SERVICE
Subscribers Regarding Service	)	ACROSS TELEPHONE
Across Boundary Lines	)	BOUNDARY LINES

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on January 31, 1978

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Ben E. Roney, John W. Winters, Dr. Robert Fischbach, and Dr. Leigh H. Hammond

APPEARANCES:

For the Respondents:

R. Frost Branon, Jr., General Attorney, Southern Bell Telephone and Telegraph Company, P.O. Box 240, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

James H. Kimzey, Kimzey, Smith & McMillan, Attorneys at Law, Wachovia Bank Building, P.O. Box 150, Raleigh, North Carolina 27602
For: Central Telephone Company

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

Charles P. Wilkins, Broughton, Broughton & Boxley, P.A., Attorneys at Law, P.O. Box 2387, Raleigh, North Carolina 27602
For: Pineville Telephone Company Various Customers of Pineville Telephone Company: L.L. Summerville, Ansel Ashley, Jr., Flint Hill Baptist Church, Johnny Bennett, Bennett Construction Co., E.W. Bland, H.A. Watts, Eller Furr, and J.R. Miller, Jr.

For the Intervenors:

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

Jesse C. Brake, N.C. Attorney General's Office, P.O. Box 629, Raleigh, North Carolina 27604
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding was instituted by the Commission in June of 1976 with a Memorandum to all regulated telephone companies regarding exchange service area boundary violations. The Memorandum requested information on all known boundary violations. The companies' responses indicated in excess of 750 known violations. The majority of these violations were cleared by changes in boundaries between exchanges without changes

in any subscriber's service. The boundary changes were reflected in filings with the Commission of revised exchange service area maps. The remaining boundary violations fit into one of two categories: (1) those for which a change was not made or proposed and (2) those involving changes or proposals for changes.

The formal docket, P-100, Sub 44, was begun in July of 1977 with an Order of Investigation based upon a Petition to Intervene by the Public Staff on July 6, 1977. Consolidating the investigation with complaints against individual companies, this Order required the Public Staff to make an investigation and report on the status of all of the known customers receiving service across boundary lines. The report was submitted on October 14, 1977, and contains the following information.

There are two large groups of services which have been provided across exchange boundaries. One is the approximately 172 cross-boundary services existing between Lexington Telephone Company and Piedmont Telephone Membership Corporation. The majority of these were "grandfathered," or maintained as pre-existing services, by Orders of the Commission in Docket Nos. P-31, Sub 65, and P-31, Sub 74, in 1966 and 1969, respectively. The other is the approximately 86 cross-boundary services between Pineville Telephone Company and the Charlotte exchange of Southern Bell. The Legislature recognized these violations in 1973 by allowing Pineville to "continue to serve its existing consumers outside of the present corporate limits so long as these consumers desire to have the Town of Pineville's telephone service." Several of these subscribers have both Pineville and Charlotte service.

No changes have been made or proposed with respect to the above groups.

The report also states that in those instances where boundary changes could not be made to eliminate the violations, the companies were requested by letters from the Commission to make changes in the services to correct the violations. Subscribers who were served from an exchange other than the one in which they were located were given a choice of either disconnecting their present service and taking service from the proper exchange or paying foreign exchange rates for their present service. Services of approximately 108 subscribers were subject to change. Only a few of those who were contacted agreed to pay the applicable foreign exchange rates; the rest took service from the proper exchange. The degree to which the subscribers objected to the proposals varied widely. At least one subscriber received an increase in calling scope without any increase in rate. Other subscribers objected strenuously because their area of interest would become long-distance after the change or because their rates would increase without any improvement in service.

Some of the violations resulted from service provided through farmer lines. Decades ago, when telephone service was difficult to obtain in some areas, groups of subscribers constructed lines (farmer lines or service station lines) from their areas to the nearest telephone company facilities in order to obtain telephone service. The subscribers had the responsibility of maintaining their portion of the facilities and were billed a reduced rate for the service from the telephone company. Several groups of subscribers who had had service for many years through that arrangement were or would have been forced to give up their service or pay a much higher monthly rate. Some subscribers objected to the proposed changes enough to complain to the Commission and requested to be heard.

The Public Staff's report was served on all parties on November 3, 1977.

Comments were filed by Southern Bell Telephone and Telegraph Company, North State Telephone Company, Mid-Carolina Telephone Company, and Central Telephone Company, and on January 18, 1978, the Commission issued an Order Setting Oral Argument on January 31, 1978.

Based upon the pleadings, oral argument, and comments, the Commission makes the following

FINDINGS OF FACT

1. In excess of 750 violations were reported by the companies in response to the Commission's Memorandum of June 7, 1976. Action which would affect subscribers' services has been taken or proposed on approximately 108 of the reported violations. No action has been proposed on approximately 258 of the total violations. The remaining violations, approximately 384, have been cleared by adjustments in exchange service area maps.

2. Five individual dockets have been established and consolidated into Docket No. P-100, Sub 44. The five dockets were established in response to complaints or requests to be heard in seven separate cases involving changes or proposals for changes in service.

3. An answer to the complaint in one of the cases, P-118, Sub 10, Mrs. Jethro Peeler, has been filed by Mid-Carolina Telephone Company and appears to satisfy Mrs. Peeler's complaint and with the Public Staff's recommendations in the report. There have been no reconciliations in the other cases.

4. The companies have substantially complied with the Commission's directive in the July 8, 1977, Order regarding a stay of further action and restoral of service upon request from subscribers. Several subscribers have requested and received restoral of their former service.

5. In some cases, the previous service would be very costly to restore. No requests for restoral in these cases have been received.

6. It is difficult to reconcile the continuation at local rates of local service from two exchanges. Foreign exchange rates would normally be applicable to one of the two services. However, the violations, a substantial number of them resulting from inadequate attention to service area boundaries, were created by the companies, not the customers. Two of the five dockets, P-42, Sub 89, and P-10, Sub 367, involve complaints of subscribers who have enjoyed dual service for many years.

7. Three docketed complaints, P-118, Sub 10; P-120, Sub 64; and P-55, Sub 767, and several other matters which are not docketed involve interstate violations.

8. The traditional method of treating violations is not completely satisfactory. The main problems are (1) grandfathering the service of some subscribers in an area stimulates feelings of discrimination in other subscribers in the same area who desire but are unable to obtain the same service, and (2) the companies historically have not administered grandfathered provisions properly as services have been extended to other subscribers at the same location. However, grandfathering the services is the only means of reconciling the remaining violations without disrupting the subscribers' services.

Based upon the above Findings, the Commission concludes as follows:

CONCLUSIONS

1. All cross-boundary violations in these dockets which cannot be corrected through reasonable exchange-boundary adjustments without changes in the subscribers' services are grandfathered, i.e., continued as long as the present subscriber or his immediate family continuously maintains service at the same location. Transfer of service or establishment of service for other subscribers is prohibited. Services in the Pineville-Charlotte area and the Lexington-Reeds-Churchland area which have been previously recognized by the Commission should not be affected.

2. Ordering paragraph No. 2 in the Commission's Order dated July 8, 1977, in Docket No. P-100, Sub 44, requiring companies to restore service upon request for those customers whose service was changed will be continued with qualification. In extreme cases in which restoral of service would require a substantial expenditure by the company, the Commission is to be informed of such requests and a decision will be made by the Commission on such requests based on the circumstances in each case.

3. The Commission requires the companies to maintain closer scrutiny of service activity in boundary areas. The Commission clearly prohibits further boundary violations and violations of the grandfather provisions stated in paragraph 1 above.

4. In grandfathered cross-boundary violations in which dual service is not now provided, the companies are requested to refuse to establish service at local rates from the exchange in which the subscriber is located unless the subscriber is willing to terminate the other service or pay the applicable foreign exchange rates for that service.

5. Each company which is now serving a subscriber at local rates from an exchange other than that in which the subscriber is located is required by the Commission to furnish a report to the other operating company involved and to the Commission showing the details and the location of each violation. In cases where a membership corporation or an out-of-state operating company is serving a subscriber in the service area of a regulated company in this State, reports to the Commission and to the other company or corporation are required from the company in whose service area the subscriber is located. Reporting of the Pineville-Charlotte and Lexington-Churchland-Reeds services is not required.

6. The Commission requires all companies to report to the Commission and other operating companies immediately upon detection of any future accidental violation of exchange boundaries or grandfather provisions or establishment of additional dual service.

IT IS, THEREFORE, ORDERED:

1. That the telephone company respondents in these consolidated dockets shall restore the service of those customers who have made specific requests for restoration of their service across boundaries, including farmer lines, said service to be maintained as pre-existing service, sometimes called grandfathered service, for the lifetime of the present occupants of said premises for service at said premises.

2. That the said telephone company respondents in these consolidated dockets shall report to the Commission on or before July 31, 1978, the names and addresses of all customers who are being provided grandfathered service under this Order across boundary lines and shall thereafter report said grandfathered service once each year on or before January 1 of each year for the service in effect the preceding year.

3. That all said telephone company respondents in these dockets and all other telephone companies in North Carolina shall hereafter observe their telephone boundaries as filed and recorded with the Utilities Commission and shall not

provide service across said boundary lines except under tariff provisions for such service or except upon specific application to and approval by the Commission for such service on a case-by-case basis.

4. That any telephone service by a North Carolina company from a North Carolina exchange to a customer in South Carolina, Georgia, Tennessee, or Virginia is beyond the jurisdiction of the Utilities Commission, and the continuation of such service shall be a matter for the telephone company and the customer, and to the extent applicable for the regulatory Commission having jurisdiction in such state.

5. That all telephone companies providing service in North Carolina shall cooperate in considering and seeking approval of such reasonable and feasible boundary adjustments which might be necessary to recognize changes in calling patterns arising from the social and economic development of North Carolina and of such other measures or procedures that might provide better telephone service to the public in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of June, 1978.

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

DOCKET NO. P-100, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Investigation of Intrastate Long Distance, WATS, and Interexchange Private Line Rates of all Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission	) ORDER SETTING) RATES FOR) INTRASTATE) TOLL SERVICE)

HEARD IN: The Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on December 6, 7, 8, 9, 20, and 21, 1977, and on January 4, 1978

BEFORE: Chairman Robert K. Koger, Presiding, and Commissioners Ben E. Roney, Sarah Lindsay Tate, Robert Fischbach, Leigh H. Hammond, John W. Winters, and Edward B. Hipp

*Chairman Koger and Commissioner Hammond Concurring in General but Dissenting in Part

APPEARANCES:

For the Applicant:

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For: Southern Bell Telephone and Telegraph Company

R. Frost Branon, General Attorney, Southern Bell Telephone and Telegraph Company, Legal Department, P. O. Box 240, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

For the Respondents:

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William C. Fleming, Vice President - General Counsel, General Telephone Company of the Southeast, P. O. Box 1412, Durham, North Carolina 27702
For: General Telephone Company of the Southeast

John Robert Jones, Power, Jones & Schneider, 100 East Broad Street, Columbus, Ohio 43215
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For the Intervenors:

Henry A. Mitchell, Jr., Smith, Anderson, Blount & Mitchell, P. O. Box 31, Raleigh, North Carolina 27602
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For: Using and Consuming Public

Jesse W. Brake, Special Deputy Attorney General, Richard Griffin, Associate Attorney General, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602
For: Using and Consuming Public

BY THE COMMISSION: On August 18, 1977, in Docket No. P-55, Sub 768, Southern Bell Telephone and Telegraph Company (Southern Bell, Bell, the Company) filed an application with the Commission for authority to increase intrastate rates and charges to produce increases in annual revenues of $65,159,964. The Commission, being of the opinion that the matter constituted a general rate case under G.S. 62-137, issued an Order on September 7, 1977, declaring it to be a general rate proceeding, suspending the proposed rates for 270 days from the date such rates were to become effective, and establishing as the test period the 12 months ended May 31, 1977.

In said Order, the Commission found that the public interest requires intrastate message toll, wide area telephone service (WATS), and interexchange private line service rates and charges to be uniform among all telephone companies operating in North Carolina. Accordingly, Southern Bell's request for authority to adjust its intrastate toll, WATS, and interexchange private line rates and charges was separated from Docket No. P-55, Sub 768, and placed in Docket No. P-100, Sub 45, for investigation and hearing, with all other telephone companies under jurisdiction of the Commission being made parties thereto.

At the time this docket was initiated, two dockets relating to toll matters were pending before the Commission, as follows: Docket No. P-100, Sub 32, is an investigation of the division of intrastate toll revenues among telephone companies under the Commission's jurisdiction. Docket No. P-100, Sub 42, is an investigation of the intrastate toll rate of return or settlement ratio and of the necessity for an increase in intrastate toll rates upon Petition of Carolina Telephone and Telegraph Company. On September 20, 1977, the Commission issued an Order separating Docket No. P-100, Sub 32, from Docket No. P-100, Sub 42, and continuing both dockets until the completion of proceedings and final Order in Docket No. P-100, Sub 45.

In response to a request from the Knotts Island exchange of Continental Telephone Company (Knotts Island) that it be exempted from the requirements of decretal paragraphs (10) and (14) of the Commission's Order dated September 7, 1977, the Commission issued its Order granting exemption and requiring Knotts Island to give notice to its subscribers as set forth in the Order.

Notice of Intervention in the proceeding was filed by the Public Staff - North Carolina Utilities Commission on October 7, 1977. The Intervention was recognized by Order issued by the Commission on October 7, 1977.

On November 22, 1977, Barnardsville Telephone Company (Barnardsville) filed a Motion requesting exemption from the requirements of the Commission's Order of September 7, 1977. An Order granting Barnardsville's Motion was issued on November 29, 1977.

American District Telegraph Company, through counsel, filed a Protest and Petition to Intervene on November 28, 1977, and on December 5, 1977, the Commission by Order allowed the Intervention.

On December 1, 1977, the Commission gave notice to all parties of record and their counsel of the procedure for receiving testimony in the proceeding.

In response to a letter, treated as a Motion, from Ellerbe Telephone Company (Ellerbe) requesting that it be excused from being present at the hearing, the Commission issued an Order on December 5, 1977, granting the request and directing that Ellerbe remain a party to the proceeding for all purposes.

The matter came on for hearing at the time and place shown above. All parties were present and represented by counsel as heretofore indicated.

Southern Bell offered the testimony of the following witnesses: William F. Dyer, Jr., Rate and Tariff Supervisor, Southern Bell, with respect to the proposed schedule of rates for intrastate message toll service (INTS)

and WATS; Roger Evan Brinner, Independent Consultant on behalf of Southern Bell, with respect to design and interpretation of an econometric model of demand for IMTS in North Carolina; B. A. Rudisill, Independent Company Relations Supervisor on behalf of Southern Bell, with respect to the increased toll settlements which will result if the proposed increases in toll rates is approved; Robert A. Friedlander, Rate and Tariff Supervisor, Southern Bell, with respect to proposed interexchange private line channel rate structures and rate levels; and Frank J. Schwahn, Project Manager in Southern Bell's cost organization, with respect to a cost study for interexchange private line channels. Following the presentation of evidence by the other parties to this proceeding, Southern Bell presented rebuttal testimony of Oliver W. Porter, Jr., Assistant Vice President - Revenue Requirements, Southern Bell, regarding the Company's proposed Daytime Savings Plan rate; and A. Max Walker, Vice President - Revenue Requirements, Southern Bell, regarding the testimony of Public Staff witness Coleman on revenue requirements and settlement ratios and procedure.

The Public Staff presented the testimony of six witnesses: M. D. Coleman, Director of Accounting, regarding rates of return on intrastate toll and local original cost net investment; Benjamin R. Turner, Jr., Telephone Engineer, regarding the impact of a daytime toll discount on telephone plant investment; William J. Willis, Jr., Rate and Tariff Engineer, regarding proposed changes in rate structure for IMTS and WATS and the disposition of increased intrastate toll revenues for North Carolina regulated telephone companies; Dennis W. Goins, Economist, regarding the toll revenue repression analysis presented by Southern Bell; Hugh L. Gerringer, Telephone Separations and Settlements Engineer, regarding the estimated level and distribution of the increase in toll revenues; and Millard N. Carpenter, III, Rate Analyst, regarding the Public Staff's analysis of the proposed rates for interexchange private line services and channels.

The testimony of the Public Staff witnesses deals in part with the level of earnings of the respective companies, the additional toll settlement dollars which the respective companies will receive if a toll increase is granted, and the settlement ratios the companies have achieved following previous toll rate increases. Some of the witnesses offered methods which could be used to pass the rate increases back to the ratepayers if the Commission decides to require flow through of the additional toll revenue dollars.

Numerous witnesses appeared and offered testimony on behalf of the various independent telephone companies operating in North Carolina. Those witnesses and the companies they represent include: Alan Martin, Randolph Telephone Company; Royster M. Tucker, North State Telephone Company; William C. Harris, Lexington Telephone Company; W.R. Hupman, Mebane Home Telephone Company; T.P. Williamson,

Carolina Telephone and Telegraph Company; Thomas S. Moncho, Central Telephone Company; T. L. Bingham, Citizens Telephone Company; Phil Widenhouse, The Concord Telephone Company; William Jankowski, General Telephone Company of the Southeast; Frank Nunnally, Heins Telephone Company; Robert M. Byrum, Norfolk Carolina Telephone Company; Harold W. Shaffer, Mid-Carolina Telephone Company; Luther A. Wolfe, United Telephone Company; and Jerry W. Braxton, Western-Westco Telephone Companies.

William R. McLester, City Manager for American District Telegraph Company, testified concerning the effect of Southern Bell's interexchange private line proposals on his company and the alarm business in general.

Ida L. May appeared as a public witness to offer testimony on behalf of the Greensboro Chapter of the American Association of Retired Persons, stating that the proposed increases would have adverse effects on elderly persons on fixed incomes who must use the telephone for both security and convenience.

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

FINDINGS OF FACT

1. Southern Bell and the independent telephone companies made parties to this docket are duly franchised public utilities subject to the jurisdiction of this Commission.

2. The public interest requires that intrastate message toll, WATS, and interexchange private line service rates and charges be uniform for all telephone companies operating in North Carolina.

3. Southern Bell and the independent telephone companies are in need of rate relief for intrastate message toll, WATS, and interexchange private line service in North Carolina.

4. The relative rates of return on intrastate toll and local operations for Southern Bell provide the Commission with an additional indication as to the need for an increase in intrastate toll rates.

5. Southern Bell has failed to make a satisfactory showing that the proposed percentage increases in rates will result in a smaller percentage increase in revenues.

6. The increase in message toll, WATS, and interexchange private line service rates and charges as requested are just and reasonable and should be approved, except as provided below:

(a) The Daytime Savings Plan rate should be approved only for the hour of 12:00 noon to 1:00 p.m.

(b) The approved increase in rates applicable to toll message telephone service within the mileage bands of 0-10 miles, 11-16 miles, and 17-22 miles should be as follows:

INITIAL PERIOD RATES

Station to Station Direct Distance Dialed (DDD)
1 Minute

Mileage Band	Approved Rates
0-10	$ .18
11-16	$ .22
17-22	$ .25

Station to Station Operator Handled (OPH)
All Hours - 3 Minutes

Mileage Band	Approved Rates
0-10	$ .55
11-16	$ .75
17-22	$1.00

Person to Person
All Hours - 3 Minutes

Mileage Band	Approved Rates
0-10	$ .95
11-16	$1.15
17-22	$1.35

NOTE: Above rates are for the initial period only. Additional minute(s) are at reduced rates.

(c) The percent increase in rates applicable to interexchange private line service approved herein should be limited to 30% for recurring charges and 100% for nonrecurring charges, accepting Southern Bell's basic proposal with regard to the restructuring of private line interexchange rates.

7. After the effective date of the increase approved herein, the combined amount of additional end-of-test-period intrastate toll revenue produced by IMTS, WATS, and interexchange private line services for Southern Bell and the independent telephone companies will be approximately $40,099,088 on an annual basis, with Southern Bell's annual share amounting to approximately $21,983,032.

8. The increased revenues resulting from the increase in toll rates approved herein will produce intrastate rates of return greater than those presently being earned by the jurisdictional telephone companies.

9. The jurisdictional telephone companies, which at present do not have general rate increase requests pending before this Commission, should have an opportunity to show cause why less than 100% of the resultant increase in revenues to be realized from the increase in rates approved herein should not be "flowed-through" to the general body of subscribers by means of a reduction in local service rates and charges.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This finding of fact is essentially procedural in nature, was not contested by the parties, and warrants no additional discussion in this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

The need for uniform toll rates in North Carolina was not an issue in this docket. This finding is consistent with previous Commission practice and policy.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Finding of Fact No. 3 relates to the need for rate relief for intrastate message toll, WATS, and interexchange private line service. The evidence and conclusions supporting this finding of fact are fully set out in other parts of this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Public Staff witness Coleman presented testimony on the rates of return on end-of-period investment and common equity before and after the proposed increase based on Bell's end-of-period adjustments to investment and expenses including and excluding the effects of repression. Witness Coleman testified that he was presenting these rates of return in comparative form for the Commission's consideration in its deliberations on the level of toll increase to be allowed in this docket, if any. His exhibits, based on Bell's (adjusted) test year level of revenues and expenses before the proposed increase, show a return on intrastate toll investment of 5.63% and on common equity of 5.71% and, on the same basis, a return on investment used to provide local service of 7.34% and on common equity of 9.35%.

Witness Coleman presented the returns on original cost net investment after the proposed increase which Bell contended would result from the proposed increase in toll rates, including and excluding the effect of repression. These returns were based on revenues, expenses, and investment presented by Bell. Witness Coleman indicated that he was not attesting to the reasonableness or unreasonableness of the amounts claimed by Bell. These returns were as follows:

	Original Cost Net Investment		Common Equity	
	Including Repression	Excluding Repression	Including Repression	Excluding Repression
Intrastate	10.02%	10.36%	15.06%	15.78%
Intrastate Toll	8.32%	9.46%	11.45%	13.85%
Local	10.75%	10.75%	16.60%	16.60%

Witness Coleman testified that the separation of the adjusted level of Bell's claimed revenues, expenses, and original cost net investment was provided by Bell in response to a request by the Public Staff. The information appears on Coleman Schedule 6. He testified that the NARUC-FCC Separations Manual had been used by Bell to separate the local and toll investment, revenues, and expenses shown in Schedule 6, pages 2 and 3.

Southern Bell witness A. Max Walker testified in rebuttal to Public Staff witness Coleman's analysis of rate of return and revenue requirements and use of the NARUC-FCC separations procedures for rate-making purposes. He disagreed particularly with three areas of Mr. Coleman's testimony. First, Mr. Walker contended that Bell seeks only to earn 9.52% on its rate base and not the 10.02% which Mr. Coleman used. Second, Mr. Walker contended that the proposed toll rate schedules will produce no more than $13.6 million additional annual revenue, while Mr. Coleman contended that they will produce $19.3 million,

These discrepancies are resolved by recognizing that the different rates of return result from different treatments of the .5% requested attrition allowance. The toll revenue estimates differ because the $13.6 million figure includes repression and the $19.3 million does not.

The third area of disagreement between witness Walker and witness Coleman involves Mr. Coleman's use of the NARUC Separations Manual to allocate investment and expenses between intrastate local and intrastate toll operations. Witness Walker contended that use of the NARUC separations procedures to present operating results for intrastate toll and local operations is misleading and does not present a true picture of the economics involved in providing these services. Walker further testified that the separations procedures are designed specifically for separating costs between interstate and intrastate operations for jurisdictional purposes. According to witness Walker, many changes made in the manual are designed to transfer revenue requirements from the intrastate jurisdiction to the interstate jurisdiction, thus artificially overstating the intrastate toll cost of service and producing a false impression of the true or actual allocation of exchange plant to the various services.

The Commission has carefully analyzed the testimony of the witnesses in this case relating to the separations of

revenues, expenses, and investment between intrastate toll and local operations. Witness Coleman contended that, if the evidence shows a rate increase is needed, the relative rate of return on end-of-period intrastate toll and local operations, before and after Bell's proposed rate increases, should be considered in determining what portion of that increase should be placed on toll rates and what portion should be placed on local rates. In calculating the comparative rates of return, he suggested that the NARUC-FCC Separations Manual is a reasonable basis for apportioning revenues, expenses, and investment.

The Commission concludes that it is reasonable for comparative purposes to use the NARUC-FCC Separations Manual to evaluate the relative rates of return on local and toll operations. Numerous witnesses testifying in this proceeding have made reference to the 1971 NARUC-FCC Separations Manual. The Commission takes judicial notice of that manual and has read both the history of the manual, contained in the "Foreword Section," and "Section 1 in General," particularly with regard to assertions by Bell witness Walker that the manual is arbitrary and designed to shift more of the revenue requirements from the intrastate operations to the interstate operations.

Our review of the manual reveals no language suggesting that the procedures are in any way arbitrary or designed to shift revenue requirements from intrastate to interstate operations. In fact, the language suggests that the experts who wrote the manual recognized the need to design fair and equitable separations methods. If the Commission accepts the assertions of Bell's witnesses, it must conclude that the joint committee composed of State, Federal, Bell, and independent company experts in the field of toll separations intentionally included statements in this manual designed to mislead and misinform the reader. The Commission does not believe such a conclusion is reasonable.

Further, the testimony of Company witness Rudisill indicates that Bell uses the same manual and that to the best of his ability he has allocated the appropriate revenues, expenses, and investment to local and toll operations. Witness Rudisill testified essentially that it would be undesirable either to allocate to the intrastate toll operations investment and expenses applicable to the local operations or to allocate to the local operations investment and expenses applicable to the intrastate toll operations. Mr. Rudisill stated on cross-examination that Southern Bell employed the controls and checks which it considered necessary to insure that these undesirable occurrences did not occur. Witness Rudisill was asked to compare the settlement base of $225,197,179 on his cross-examination Exhibit No. 1 with the settlement base on Rudisill Exhibit No. 7 of $225,197,000. The witness agreed that the two numbers are the same. He further testified that if one took the net operating income per books of $16,673,603 shown on Rudisill cross-examination Exhibit

No. 1 and deducted total adjustments of $3,843,723, he would arrive at the adjusted intrastate toll net operating income, excluding interest charged construction, of $12,829,880.

In summary, the Commission concludes that the comparative rates of return provided by witness Coleman offer additional evidence as to the need for the increase in rates as approved herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

In its application for an increase in toll rates and charges, Southern Bell adjusted the revenues to be realized from its proposed rates to give recognition to what it considered to be the effect of repression. The adjustment contemplates that customers will respond to a price increase for intrastate toll messages by reducing demand, which results in a percentage increase in revenues less than the percentage increase in rates.

Southern Bell offered the testimony of Roger E. Brinner, who developed an econometric model of demand for IMTS. Witness Brinner discussed various aspects of general economic theory and suggested the following distinct features which he believed are applicable to IMTS: (1) it is a substantial convenience on which customers depend but it is not an absolute necessity; (2) it is significantly affected by habit and thus demand will change only partially at the time of a price or income change and then increase through time; (3) permanent increases in price or income produce permanent changes in customer usage; and (4) an increase in relative price has a repressive effect on level of toll demand.

Witness Brinner's econometric analysis indicated that a hypothetical 10% increase in rates would reduce demand by 2.65% during the 12 months immediately following the price change. According to witness Brinner, revenue can be expected to increase by only 7.1%, resulting in a suggested repression effect of 2.9%. He made this determination of IMTS demand by injecting the hypothetical 10% price increase into the test year and utilizing the income, population, unemployment, and other economic factors as they existed during the test year.

Public Staff witness Dennis W. Goins reviewed the econometric model offered by witness Brinner and testified on behalf of the Public Staff as to a possible repression effect of the proposed rates. While witness Goins agreed that the Brinner model is theoretically sound, he concluded that the aggregate nature of the model precludes its use in estimating repression effects or in setting rates for different types of toll services. Since the proposed rates, if approved, will go into effect at some future date, witness Goins indicated that, for purposes of decision making in matters involving public policy, it is improper to inject a price increase into the test year without

considering corresponding increases in real income and in the consumer price index which will exist when the rates become effective.

Witness Goins also expressed concern over discrepancies which result when one uses different observation periods to perform a regression analysis. Witness Goins indicated that he ran a series of regressions similar to witness Brinner's Model 1. However, he chose five different time periods over which to fit the model of message toll demand. Witness Goins concluded that only in the time period selected by witness Brinner were the price elasticities significant.

While the Commission finds no fundamental deficiency in the econometric model offered by witness Brinner, it concludes that the model, as applied, is not acceptable for rate-making purposes and that Southern Bell has failed to carry its burden of proof to show that repression does in fact exist for IMTS. The Commission is particularly concerned about the aggregate nature of the demand model used by Bell. Such a model prohibits estimation of demand elasticities for the particular types of toll calls which must be priced and, consequently, provides little assistance to the Commission in setting rates. In fact, both witness Brinner and witness Dyer conceded that the Brinner model was not used in establishing the rates for which Bell seeks approval in this proceeding.

The effect of witness Brinner's methodology was to inject into the test year a hypothetical 10% increase in price while income, unemployment, industrial development, and other economic variables were changing. It must be remembered that the rates approved in this proceeding will take effect in the future when economic factors might be different. The rates which the Commission approves in this, or any other, proceeding necessarily involve important public policy considerations. Witness Brinner conceded that a prudent economist would take steps other than those included in his testimony if the economist were called on to make, or give advice on, important public policy matters. In his analysis, witness Goins considered not only the proposed price increase but also a 5% increase in the consumer price index and a 2% growth in real per capita income, figures which he believed are conservative estimates of economic conditions when the rates applied for in this docket become effective. Based on these additional variables, witness Goins concluded that not only is repression absent but, in just two years, the percentage increase in revenues will exceed the percentage increase in price.

Southern Bell contended that since the Goins' analysis makes projections outside the test period it is inappropriate for rate-making purposes. The Commission is not persuaded by these arguments. A test period is utilized as a means of estimating what is likely to occur if the proposed rates go into effect. The law permits adjustments

for known changes outside the test period up to the time of hearing. Permitting adjustments for known changes is quite different from injecting hypothetical numbers into test-period operations. Had he desired to do so, witness Goins could have injected his increases in the consumer price index and real per capital income into the test year and reached the same results. In the Commission's opinion, that would not have made his analysis any more meaningful since the test year concept contemplates the use of known facts and not hypothetical facts which have not occurred and are not likely ever to occur.

The Commission has carefully reviewed the evidence relating to repression. It is admittedly complex. The Commission's review, however, leads to the conclusion that, considering the net effect of repression and the growth in demand for IMTS, the percentage increase in the level of revenues to be realized from the increase in rates as approved herein will be no less than the percentage increase in such rates.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Bell witness Dyer described Bell's proposed repricing of the message toll and WATS tariffs. He indicated that the Company's objective was to price message toll service to maximize its revenue contribution in order to keep basic rates lower than would otherwise be possible. Witness Dyer stated that toll messages compete with U. S. and private mail as well as with telegrams and night letters.

The schedules for message toll service and WATS were developed in accordance with the pricing methods discussed by Mr. Dyer. He stated that he believes that the schedules are fair and reasonable and will help keep local exchange rates to a minimum. Witness Dyer also stated that he believes that toll rates are making a contribution to local exchange rates but does not have studies confirming that position. He advanced two reasons for the short haul toll cost being greater than the long haul: (1) the setup cost, whether it be operator or DDD, is the same for a 10-mile call as it would be for a 100-mile call and, therefore, carries a bigger percentage of the total price of that call; (2) long hauls have various carrying capacities, created through the use of microwave technology, which provide greater economies of scale than for the short haul.

Witness Dyer reviewed the relative cost of the short haul call, versus medium and long, with respect to the potential impact of EAS requests and concluded that the demand for EAS would not be affected significantly.

The Commission, however, believes that it is in the best interest of both the Company and its subscribers to minimize the impact of the rate increase approved herein with regard to the demand for extended area service, while adhering to

the Company's overall pricing objective relating to message toll service.

The Commission, therefore, concludes that the approved increase in rates applicable to toll message telephone service within the mileage bands of 0-10 miles, 11-16 miles, and 17-22 miles should be levels specified in Finding of Fact No. 6.

Public Staff witness Willis testified that his responsibility in this docket included surveying testimony of Southern Bell witness Dyer concerning the proposed structural changes in the intrastate long distance and WATS proposals and that, in the absence of such cost studies, the Dyer approach is acceptable with one exception, the proposed daytime discount.

The evidence concerning a message toll service discount during the daytime periods of 8:00 a.m. to 9:00 a.m. and 12:00 noon to 2:00 p.m. consists of the testimony of Company witnesses Dyer and Porter and Public Staff witnesses Coleman, Turner, and Willis. The testimony of witness Coleman has been previously reviewed. Witness Dyer explained that the addition of a new Daytime Savings Plan rate would extend the 25% evening discount to three hours of the day, 8:00 a.m. to 9:00 a.m. and 12:00 noon to 2:00 p.m. He stated that the Daytime Savings Plan will extend to the daytime user the same off-peak pricing incentive that presently is available to those who use the network during evening, night, and weekend time periods. According to witness Dyer, since these daytime periods experience less usage, the new proposal will lower peak-load periods and eventually result in savings to the ratepayer. Witness Dyer also stated that, if the proposed daytime discount periods were priced without the discount, the resulting revenues would be $38,401,881. This exceeds the proposed rates filed by the Company, which included the daytime discount proposal, by $5,650,829.

Witness Turner testified that the purpose of his testimony was to describe the relationship between a toll discount period and the potential impact on telephone plant investment. He stated that the usage sensitive component of telephone plant is designed to assure a low occurrence of call blockages during the busy hour of the office or the network busy season. Data presented by Mr. Turner showed that 25% of the final intertoll trunk groups have their busy hours between 10:00 a.m. and 11:00 a.m., 12.5% between 3:00 p.m. and 5:00 p.m., and 62.5% between 8:00 p.m. and 11:00 p.m.

Mr. Turner explained that if a portion of the busy hour traffic could be shifted to other periods of time future plant investment reduction could be realized. Further, a price discount which did not defer or reduce future plant investment would simply produce lower revenues for a given service, resulting in a loss of revenues which would have to

be made up by another service. In his opinion, the Company's proposal to discount toll calls during the daytime periods of 8:00 a.m. to 9:00 a.m. and 12:00 noon to 2:00 p.m. would not cause a shifting or reduction in the network busy hour.

Mr. Turner further testified regarding information received from Southern Bell which was used to characterize usage. Although he was supplied with conversation minutes, he indicated that this type of measured usage did not include usage generated by setup time and call attempts. In his opinion, this type of information is not used to engineer or design a toll network or trunking system.

Witness Porter's rebuttal testimony consisted of information requested by the Commission regarding the Daytime Savings Plan rate proposal and the Company's basis for making this proposal. Included in the information was an explanation of the network studies underlying and supporting witness Dyer's testimony that the proposed rate schedule would benefit North Carolina customers. Mr. Porter testified that the network analysis presented was based upon conversation minutes of use but that CCS usage and attempts were used to engineer and design the network.

Based upon all of the evidence of record, the Commission concludes that a daytime discount rate is reasonable. The evidence indicates that such a discount has been shown to be an incentive to shift calling patterns to slack periods thereby postponing additional investment for a long period and making the network more efficient.

The Commission believes, however, that it should move with caution in extending the evening discount to daytime hours until such time as the Company acquires the necessary historical experience to show more clearly that such a rate is advantageous to both the Company and its subscribers. Therefore, the Commission concludes that the Daytime Savings Plan rate should apply only to the hour of 12:00 noon to 1:00 p.m.

Witness William R. McLester of American District Telegraph Company, Southern Bell Friedlander and Schwahn, and Public Staff witness Carpenter presented testimony on the rate proposals and cost support for interexchange private line services.

Witness McLester testified regarding American District Telegraph Company's alarm service and the effect of the interexchange private line rate proposals on his business and its clients.

Witness Friedlander presented the interexchange private line rate proposals and described the overall pricing policies and principles considered in the development of these rates.

Witness Schwahn presented testimony regarding the cost study used by Southern Bell in the private line rate proposals. He testified that the recurring costs developed from the study included cost of money considerations and were based on current rather than embedded or original cost investment. Mr. Schwahn further stated that nonrecurring costs were developed by applying current labor costs to average time requirements established through the analysis of required work operations.

Public Staff witness Carpenter presented testimony regarding his evaluation of the Company's interexchange private line proposals. He offered an exhibit indicating the percentage increases on various classes of private line service which would result from the Company's proposals based on May 1977 data. He recommended that the increases in recurring revenues from the individual classes be limited to 30% and that the increases in nonrecurring revenue be limited to approximately 100%.

In lieu of the May 1977 data originally filed by the Company, witness Carpenter recommended use of private line units and revenue figures filed more recently in response to a Public Staff request. He pointed out that, if the proposed rate adjustments were approved and the concurrence provisions were continued, the independents would receive some additional revenue from interexchange private line services which was not reflected in the case. He recommended continuation of the concurrence provisions for message toll, WATS, and interexchange private line services and extension of the concurrence provisions to foreign exchange service and Enterprise service.

The Commission concludes that Bell's basic proposal for restructuring the rates for interexchange private line service is acceptable. The Commission is aware, however, that the change in rate structure will have varying effects on individual subscribers' bills for this service. Considering the effects of the change in structure and desiring to limit the proposed increases to a reasonable level, the Commission concludes that the proposed rate structure should be adopted to the extent possible according to the recommendations on increases in levels presented by witness Carpenter. The Commission concludes that a rate schedule so designed is reasonable under the circumstances and should be adopted.

The Commission further concludes that the present concurrence provisions on message toll services, WATS, and interexchange private line service are reasonable and should be continued. The Commission also concludes that the proposed concurrence in foreign exchange service and Enterprise service is reasonable and in the public interest and should be established.

The Commission concludes that the net effect on the revenues of independents to changes in interexchange private

line service and foreign exchange service and Enterprise service approved in this case will be minimal and that no adjustment to the independents' revenues will be required due to these changes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Company witnesses Dyer, Brinner, Friedlander, and Schwahn and Public Staff witnesses Gerringer, Willis, Carpenter, Goins, and Turner all presented testimony affecting the estimated combined amount of additional end-of-test-period (May 31, 1977) intrastate gross toll revenues that would be produced for Southern Bell and the independents resulting from changes in IMTS, long distance, WATS, and interexchange private line rates proposed by Southern Bell herein. The testimony of these witnesses related in part to issues such as repression of long distance intrastate toll revenues, the proposed Daytime Savings Plan, WATS revenues, and interexchange private line service revenues which have been discussed previously in this Order.

The following tabular summary shows the additional intrastate toll gross revenues to be produced as estimated by the combined testimony of Bell's witnesses and by the combined testimony of the Public Staff's witnesses:

	Southern Bell's Estimate	Public Staff's Estimate
Long Distance Service (Message Telephone Service - MTS)	$169,694,570	$180,354,732
	x 12.79%	x 22.60%
	21,703,936	40,760,169
WATS Service	2,527,895	3,399,947
Interexchange Private Line Service	1,100,932	0
Total for Southern Bell and the Independents Combined	$ 25,332,763	$ 44,160,116

These revenue amounts reflect levels presented in prefiled testimony and testimony revised at hearing. The basis for the zero amount shown for the Public Staff's estimate for the interexchange private line service is indicated in Evidence and Conclusions for Finding of Fact No. 6 and is the result of applying Public Staff witness Carpenter's recommendations regarding limits on the proposed increases in the interexchange private line service rates.

Bell witness Dyer testified that a straight reprice of the proposed schedule of rates for long distance service, which included the effects of the proposed Daytime Savings Plan, will produce an annual increase of $32,715,052 for Southern Bell and the independents combined. However, as the result of repression suggested by Company witness Brinner and

shifts in messages to the Daytime Savings Plan hours, the realized annual increase for Southern Bell and the independents combined will amount to only $21,703,936. Mr. Dyer also testified to the basis for the additional toll revenues of $2,527,895 that would be produced by proposed changes in WATS intrastate rates for Southern Bell and the independents combined. Bell witnesses Friedlander and Schwahn testified to the proposed changes in the interexchange private line service rates and the resulting additional intrastate toll revenue of $1,100,932 for Southern Bell and the independents combined. (See Evidence and Conclusions for Finding of Fact No. 6.)

Public Staff witness Gerringer testified concerning the difference between Southern Bell's estimate of $21,703,936 and the Public Staff's estimate of $40,760,169 for the additional intrastate toll revenues to be produced by the proposed changes in the long distance service rates. Mr. Gerringer first testified that Southern Bell used an intrastate toll message sample (including Southern Bell and independents messages) for the period April 1, 1976, through December 31, 1976, in order to determine the aggregate percentage increase in intrastate toll revenues due to the proposed changes in the toll rates. This increase was determined by comparing the revenues produced by the message sample when priced at the current rates and when priced at the proposed rates. The revenues were determined by using the proposed rates, including the impact of the 25% revenue discount proposed by the Daytime Savings Plan during the hours of 8:00 a.m. to 9:00 a.m. and 12:00 noon to 2:00 p.m. This approach revealed a 19.3% aggregate revenue increase. After allowing for repression and shift in the messages to the proposed Daytime Savings Plan hours, the resulting increase was 12.79%. To estimate the amount of additional intrastate toll revenues that would be produced by the proposed changes in toll rates, Southern Bell applied the 12.79% revenue increase determined from use of the message sample to the actual gross intrastate toll revenues of $169,694,570 billed during the 12-month period ended May 31, 1977, for Southern Bell and the independents combined. This resulted in the $21,703,936 figure shown in the summary table under Southern Bell's estimate.

Mr. Gerringer testified that the Public Staff arrived at an aggregate revenue increase of 22.60% using Southern Bell's basic message sample approach but without allowing for the effect of the discounted Daytime Savings Plan and repression. As previously discussed, the disallowance of repression was proposed by Public Staff witness Goins while the disallowance of the Daytime Savings Plan and the corresponding revenues impact resulting from such disallowance was proposed by Public Staff witnesses Willis and Turner. To estimate the amount of additional intrastate toll revenues, the 22.60% revenue increase was applied to an end-of-test-period (May 31, 1977) amount of gross intrastate toll revenues of $180,354,732 resulting in the amount of

$40,760,169 shown in the summary table under the Public Staff's estimate.

Public Staff witness Gerringer testified that an end-of-test-period amount of gross intrastate toll revenues was appropriate to use in order to compute the end-of-test-period level of the additional revenues to be produced by the proposed changes in the intrastate long distance toll rates since Southern Bell's portion of the increase would be considered in its general rate case , along with end-of-test-period levels of all appropriate items, for rate-making purposes. Mr. Gerringer testified that the $180,354,732 end-of-test-period amount was determined by summing the actual billed intrastate toll revenues for Southern Bell and the independents combined for the months of December 1976 through November 1977 (six months on each side of the end of the test period).

The Commission believes that witnesses Gerringer's utilization of the annualized level of message toll revenues is in keeping with the test year concept and concludes that it is appropriate for use herein.

The basis for the additional WATS intrastate toll revenues of $3,399,947 shown by the Public Staff's estimate in the summary table is found in the testimony of Company witness Dyer and Public Staff witness Willis.

Witness Dyer testified that he was proposing an increase in WATS rates generally in line with the increases for IMTS, for which WATS is an alternative. By so doing, he hoped to maintain the present relationship between the two services and to preserve the competition that WATS rates have with toll rates.

According to witness Dyer, the proposed changes in inward WATS rates over outward WATS rates result from relative cost differences in the two services. He stated that his proposed change from 240 hours to 180 hours before the application of overtime charges for full business day service will shift some additionally generated revenue to the heavy users of full business day WATS.

Public Staff witness Willis testified that the proposed rate schedules are reasonable but recommended that the level of WATS revenues be altered in the same proportion as message toll revenues. This change was suggested since disallowance of Southern Bell's proposed daytime discount rates, as proposed by the Public Staff, would create more dollars of revenue from the message toll service. Mr. Willis anticipated that an additional increase of $872,052 would be necessary from the WATS schedule.

The Commission concludes that the WATS rate schedule as filed by Southern Bell is just and reasonable and, based upon the Commission's previous findings, will result in WATS rates being in line with those relating to long distance

rates such that the same approximate relationship exists between the two classes of service.

Based upon the findings set forth and incorporated herein, the Commission concludes that the total additional intrastate toll revenues which will be produced for Southern Bell and the independents combined by the proposed changes in intrastate toll rates as approved herein are $40,900,088 and that Southern Bell's share is $21,983,032.

Company witness Rudisill and Public Staff witness Gerringer presented testimony regarding the distribution between Southern Bell and the independents of the estimated additional gross intrastate toll revenues or the toll settlements which would be produced by Southern Bell's proposed changes in the intrastate toll rates. Most of the independents settling on an actual cost basis presented testimony regarding the amount of additional net intrastate toll revenues that each would expect to receive through additional toll settlements. Some companies based these estimates on expectations regarding the impact of the proposed toll rate changes on the intrastate toll settlement ratio, while others made comparisons of the expected resulting intrastate toll settlement ratio with the settlement ratio used in the individual company's last general rate case for determining its end-of-test-period intrastate toll revenues.

Issues previously set out in the Commission's pending Docket No. P-100, Sub 32, relating to the distribution of toll revenues between Southern Bell and the independent cost companies were not made issues in these proceedings and, therefore, were not introduced by any party as a basis for effecting the distribution of the additional gross intrastate toll revenues under consideration.

Company witness Rudisill testified that, in estimating the amount of increased intrastate toll settlements which would result from the changes proposed by Southern Bell to the intrastate toll rates, it was necessary first to estimate the effect on the standard schedule companies. He did this by comparing the actual May 1977 settlements by exchange for each company with the settlements for the same month which would have resulted if the proposed intrastate toll rates had been in effect, including the effects of repression and the Daytime Savings Plan as determined by Bell. The increase in toll settlements produced by this comparison was then annualized and brought to the end of the test period (May 31, 1977).

Using this approach, Mr. Rudisill estimated that the annual increase in intrastate toll settlements for long distance service and WATS for the standard schedule companies combined is approximately $62,000. Mr. Rudisill testified that the standard schedule companies will not receive any additional toll settlements from the changes proposed in the interexchange private line rates since the

private line settlements for these companies are based on nationwide average cost tables which are related to facility units rather than to billed revenues as are long distance and WATS settlements.

Mr. Rudisill next testified to the method he used of settling on an actual cost basis to estimate the increase in intrastate toll settlements for Southern Bell and each of the independent companies. He first determined the total amount of additional intrastate toll revenues to be distributed between Southern Bell and the cost companies by reducing the total additional Bell estimated intrastate toll revenues of approximately $25,035,000 (this amount does not reflect witness Dyer's correction to the additional WATS revenues that will be produced as previously discussed) by the $62,000 estimated to go to the standard schedule companies. This leaves $24,973,000 as the amount Bell estimates it will share with the cost companies. This amount was then distributed between Southern Bell and the cost companies based on the relative amounts of each company's net intrastate toll investment, as determined for intrastate toll settlements, to the total of all net intrastate toll investments adjusted to an end-of-test-period level.

Using this approach, Mr. Rudisill estimated that Southern Bell's annual increase in intrastate toll settlements for long distance, WATS, and interexchange private line services would be approximately $13,593,000 (54.43%) and that for the cost companies combined the increase would be approximately $11,380,000 (45.57%). The additional intrastate toll settlements for each cost company can be determined by spreading the $11,380,000 among them based on the percentage of each company's net intrastate toll investment to the total net intrastate toll investments combined for all cost companies.

On cross-examination Mr. Rudisill testified that the estimated additional intrastate toll revenues or toll settlements distributed between Southern Bell and the independents were gross amounts which were determined strictly from an analysis of the differential revenue effects produced by the proposed changes in the intrastate toll rates. No consideration was given to an intrastate toll settlement ratio either achieved for the test period or projected or proformed for the test period as a basis for effecting this distribution of estimated additional intrastate toll revenues or toll settlements.

Public Staff witness Gerringer basically agreed with the methods used by Bell witness Rudisill to distribute the estimated additional gross intrastate toll settlements which Southern Bell and the independents would expect to receive from the proposed changes in the intrastate toll rates. Mr. Gerringer explained that this distribution of toll revenues between Southern Bell and the independents was based on the methods used to conduct toll settlements between Southern

Bell and the independents on either a standard schedule or an actual cost basis. Thus, while the estimated aggregate increase in intrastate toll revenues was determined by a billed revenues analysis, for the purpose of distributing the increase among all the companies, including Southern Bell, a toll settlement basis was used. Mr. Gerringer deemed this appropriate since it is the means by which a given company actually determines its toll revenues.

Mr. Gerringer testified that his results of the distribution of the estimated additional intrastate toll revenues differed from Mr. Rudisill's since he reflected the results of the Public Staff's recommendations regarding repression, the Daytime Savings Plan, an end-of-test-period adjustment, and additional WATS and interexchange private line revenues in determining the estimated total additional intrastate toll revenues which would be subject to distribution. Paralleling the distribution method used by Mr. Rudisell, Mr. Gerringer first estimated the increase in intrastate toll settlements for the standard schedule companies combined to be approximately $500,000, with the qualification that a more accurate determination of this amount should be made based on the Commission's final decisions regarding all the issues in this proceeding.

Witness Gerringer then took the Public Staff's estimate for the total additional intrastate toll revenues of $44,160,116, and reduced it by $500,000, leaving a total of $43,660,116. This amount was distributed between Southern Bell and the cost companies combined based on relative net intrastate toll investments, resulting in additional intrastate toll settlements of $23,764,201 (54.43%) for Southern Bell and $19,895,915 (45.57%) for the cost companies combined.

On cross-examination, witness Gerringer emphasized that the total estimated additional intrastate toll revenues in question were gross revenues and that each company, including Southern Bell, would be expected to receive its share of the estimated additional toll revenues based on the distribution previously described. The witness also testified that this gross amount of additional toll revenues was determined independent of any consideration of changes in the intrastate toll settlement ratio. He also stated that changes in the settlement ratio may result from a combination of factors and not just changes in toll revenues.

The Commission concludes, based on the testimony and evidence presented in this case, that only additional gross intrastate toll revenues or toll settlements are to be considered as a basis for distribution between Southern Bell and the independents and that the method of distribution presented by the testimony of Bell witness Rudisill and Public Staff witness Gerringer is proper and reasonable for this purpose. The Commission further concludes that distributional methods based on additional net intrastate

toll revenues or toll settlements or on comparative intrastate toll settlement ratios, as presented in the testimony of the witnesses for the independents settling on an actual cost basis, are not appropriate for use in these proceedings and are contrary to the information requested in the Order issued September 7, 1977, in this docket. These methods, therefore, will not be considered. Finally, the Commission concludes that the level of total additional intrastate toll revenues which will be produced by the changes in the intrastate toll rates as approved herein is the appropriate total estimated amount to be considered for flow through purposes.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8 AND 9

In its September 7, 1977, Order establishing Docket No. P-100, Sub 45, the Commission stated as follows: "Should any rate increases be approved as a result of the separated proceedings, such increases will be considered in any telephone company rate case pending before the Commission or local rate reductions will be considered to offset any additional revenue which may result from the proceeding for those companies which do not have a pending rate case." Ordering Paragraph 14(d) of that Order also directed each independent company to file testimony on or before November 1, 1977, containing a specific proposal for local service rate reductions to offset any additional revenue which may result from this proceeding.

The directive contained in Ordering Paragraph 14(d) was not followed by most of the independent companies submitting testimony. Most responding companies offered interpretations of the Paragraph 14(d) provisions although some companies suggested procedures to effectuate flow through. The suggested procedures ranged from no flow through to complete flow through. The most commonly suggested procedure recommended a flow through of the dollar difference between the companies' proposed settlement ratio of 9.12% and the 8.3% settlement ratio actually achieved during the test period.

Adoption of this procedure would provide an increase in net income to all cost companies equal to the difference between the 8.3% achieved settlement ratio and the proformed settlement ratio of 6.32%. Most of the companies recommending this procedure preferred that flow through be delayed for one year and required only to the extent the achieved settlement ratio exceeds 8.3%.

Public Staff witness Willis offered the Public Staff's position on flow through. Witness Willis contended that this proceeding is an improper forum in which to establish revenue requirements for the State's 23 jurisdictional companies. He further recommended that the Commission flow back to the general body of subscribers any additional revenues granted in this proceeding so that changes in each company's gross revenues could be avoided.

Since this docket was not designed to perform an operational income analysis for each company, witness Willis indicated that his opinion was based on changes in gross income and not settlement ratios. He indicated that increased expenses for companies which do not have rate cases pending will cause a downward trend in settlement ratio even without the present proceeding.

According to witness Willis, the gross dollars which he recommended be returned to the general body of subscribers would be flowed through over time. The revenue flow of the various companies would not be affected by this proceeding since any revenues lost from local rate reductions would be offset by toll revenue increases.

Witness Willis did not recommend a specific amount of dollars to be flowed through since the Public Staff had not had the opportunity, in this proceeding, to thoroughly review the books and records of each company. To determine a specific dollar amount, a review of both local and toll revenues would be required since a change in either can affect the overall rate of return. Witness Willis noted that the independent companies were not required to submit minimum filing requirements and that no independent company offered testimony on cost of capital. In the absence of such filings, and since the independents were not subjected to a complete audit, witness Willis felt that the public interest can be protected only by the complete flow through recommended by the Public Staff.

On cross-examination, witness Willis opposed the plan of the independent companies recommending flow through of dollars in excess of the achieved settlement ratio after one year. He indicated that such a procedure would constitute a partial guarantee of rate of return thereby reducing the risk of the particular company. Such a change in risk would necessitate further Commission consideration of that company's cost of capital.

Witnesses for several telephone companies testified, based upon past experience, that they had been required to flow through as a reduction in local service rates estimated increases in toll service revenues which were not realized. Further, the witnesses testified that in determining the overall revenue requirements of the companies in the past the Commission had understated the cost of local telephone service because the level of toll service revenues which the companies were expected to experience was overstated. The witnesses concluded that as a result of such overestimates and/or overstatements the companies were virtually precluded from earning the returns last found fair by this Commission.

The Commission has very carefully considered the evidence with regard to flow through of the additional toll revenues approved herein to customers and concludes that the full increase in toll rates should be passed through to customers as a reduction in existing local service rates. For the

three companies with rate cases being decided simultaneously with this case, i.e., Southern Bell, Central Telephone Company and United Telephone Company of the Carolinas (Order issued 3-20-78), this will mean that the additional toll revenue will be utilized to meet the revenue requirements found in said cases so as to reduce the burden on local service rate increases that would otherwise be required.

All other telephone companies in North Carolina shall file new tariffs to reduce local service rates by the amounts of the additional toll revenues they will receive under this Order, as shown in Appendix B attached to and incorporated herein as a part of this Order. Provided, however, that in compliance with due process of law, for an interim period not to exceed six months after the issuance of this Order, any company shown in Appendix B which files exceptions to this flow through provision within 10 days after issuance of this Order with an affidavit showing irreparable injury therefrom and requesting the right to be heard thereon may file with said reduced tariffs an application for temporary interim stay of such rate reduction or a part thereof together with a bond or undertaking for refund or rebate of said ordered reductions or any part thereof which the Commission finds after hearing should pass through to the company's customers. The affidavit and application for stay shall include or be followed within not more than 30 days by all schedules required to show that such revenues will not allow the companies to achieve a level of actual (average) earnings, measured in terms of return on common equity, greater than the end-of-period level last found fair by this Commission in the companies' last general rate cases, prepared on a test period of the 12 months ending December 31, 1977, adjusted solely for the annual effect of any rate increase going into effect during said test year. The calculation of the actual (average) return on common equity shall be calculated in a manner consistent with the findings of the Commission in said last general rate cases.

The application shall contain a schedule of the rate reductions the applicant would propose to put into effect to pass through 100% flow through in the event said stay is denied or after hearing said exceptions are overruled.

The Public Staff and any other party hereto shall have 10 days after the filing of such application to file response thereto.

If any stay is granted hereunder the Commission shall establish by subsequent Order the procedure for expedited hearing on said application and exceptions.

The estimated additional toll settlements shown in Appendix B are based on data supplied by Southern Bell in response to letter requests from the Commission dated February 23 and March 13, 1978, copies of which were sent to all parties of record. The Commission is in receipt of letters on behalf of Citizens Telephone Company, Carolina

Telephone and Telegraph Company, Norfolk-Carolina Telephone Company, United Telephone Company of the Carolinas, Inc., North State Telephone Company, and the Public Staff regarding these data requests and responses.

The Public Staff stated that it has reviewed the data supplied by Southern Bell and agrees with the numbers contained therein, the five companies renewed their exceptions to the methodology used by Southern Bell to calculate the numbers. Having considered these exceptions, the Commission concludes that they present no new issues which the Commission has not previously deemed inappropriate for determination in this docket. See Evidence and Conclusions for Finding of Fact No. 7, supra. The Commission concludes, moreover, that the right of each independent company to be heard further on the matter of additional toll revenues is fully protected by the foregoing provisions for hearing on exceptions to this Order.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Southern Bell Telephone and Telegraph Company and the other telephone companies in North Carolina under the Commission's jurisdiction are hereby authorized to increase the North Carolina intrastate message toll, WATS, and interexchange private line service rates and charges as set forth in the application filed by Southern Bell on August 18, 1977, except (a) that the Daytime Savings Plan rate is authorized only for the hour of 12:00 noon to 1:00 p.m.; (b) that the percentage increase in rates applicable to private line interexchange service and foreign exchange service is limited to 30% for recurring charges and 100% for nonrecurring charges, accepting Southern Bell's basic proposal with regard to the restructuring of private line interexchange rates; (c) that a nonrecurring charge of $4.00 is established for the initial establishment of Enterprise service, such charge to apply for requests for establishment of the service in each exchange or each group of exchanges in one combined alphabetical listing; and (d) that the increase in rates applicable to intrastate toll message service within the mileage bands of 0-10 miles, 11-16 miles, and 17-22 miles is authorized as follows:

INITIAL PERIOD RATES

Station to Station Direct Distance Dialed (DDD)
1 Minute

Mileage Band	Approved Rates
0-10	$ .18
11-16	$ .22
17-22	$ .25

Station to Station Operator Handled (OPH)
All Hours - 3 Minutes

Mileage Band	Approved Rates
0-10	$ .55
11-16	$ .75
17-22	$1.00

Person to Person
All Hours - 3 Minutes

Mileage Band	Approved Rates
0-10	$ .95
11-16	$1.15
17-22	$1.35

NOTE: Above rates are for the initial period only. Additional minute(s) are at reduced rates.

2. That the rates and charges thus prescribed which will produce additional gross revenues in the amount of approximately $40,900,088 from intrastate message toll, WATS, and interexchange private line service are hereby approved to be charged by Southern Bell and all other telephone companies in North Carolina under the jurisdiction of this Commission on a uniform basis effective on service to be rendered on and after 10 days from the date of this Order except as noted hereinafter.

3. That the rates, charges, and regulations applicable to interexchange private line services shall become effective on service to be rendered on and after 45 days from the date of this Order.

4. That Southern Bell Telephone and Telegraph Company, in cooperation with the independents, shall file appropriate revised tariffs reflecting the above adjustments within 10 days of the date of this Order to be effective as prescribed above.

5. That each independent jurisdictional company shall file changes and additions to its concurrence provisions and related changes in other sections in accordance with

Appendix A attached hereto within 10 days of the date of this Order, to become effective as above provided.

6. All telephone companies shown in Appendix B shall file new tariffs to reduce local service rates by the amounts of the additional toll revenues they will receive under this Order, as shown in Appendix B attached to and incorporated herein as a part of this Order., Provided, however, that in compliance with due process of law, for an interim period not to exceed six months after the issuance of this Order, any company shown in Appendix B which files exceptions to this flow through provision within 10 days after issuance of this Order with an affidavit showing irreparable injury therefrom and requesting the right to be heard thereon may file with said reduced tariffs an application for temporary interim stay of such rate reduction or a part thereof together with a bond or undertaking for refund or rebate of said ordered reductions or any part thereof which the Commission finds after hearing should pass through to the company's customers. The affidavit and application for stay shall include or be followed within not more than 30 days by all schedules required to show that such revenues will not allow the companies to achieve a level of actual (average) earnings, measured in terms of return on common equity, greater than the end-of-period level last found fair by this Commission in the companies' last general rate cases, prepared on a test period of the 12 months ending December 31, 1977, adjusted solely for the annual effect of any rate increase going into effect during said test year. The calculation of the actual (average) return on common equity shall be calculated in a manner consistent with the findings of the Commission in said last general rate cases.

(a) The application shall contain a schedule of the rate reductions the applicant would propose to put into effect to pass through 100% flow through in the event said stay is denied or after hearing said exceptions are overruled.

(b) The Public Staff and any other party hereto shall have 10 days after the filing of such application to file response thereto.

(c) If any stay is granted hereunder the Commission shall establish by subsequent Order the procedure for expedited hearing on said application and exceptions.

Further provided, however, that (1) the effect of additional toll revenues approved herein on Carolina Telephone and Telegraph Company will be considered as part of pending rate case proceedings in Docket No. P-7, Sub 624, now set for hearing beginning 6 June 1978, consistent with the treatment herein afforded other utilities with rate cases pending, and (2) Carolina shall file an Undertaking to refund or rebate any and all revenues collected on or after

3 April 1978 which the Commission finds after hearing should be passed through to the Company's subscribers.*

*Amended by Order dated April 14, 1978.

7. That Southern Bell shall file monthly a report with the Commission setting forth the rate of return (settlement ratio) used for intrastate toll settlement purposes for each month as soon as it is known. Such report shall also present by month and on a 12-month-to-date basis in total and by Company (cost and standard contract) the absolute dollar amount(s) of intrastate toll revenue settlements. Copies of all work papers developed in this regard shall also be filed with the Commission's Chief Clerk.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of March, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

KOGER AND HAMMOND, CONCURRING IN GENERAL BUT DISSENTING IN PART:

We agree with the majority's findings on the increase in rates found to be necessary including (1) establishment of a one-hour daytime discount, (2) the reductions made in Bell's proposed rates for calls less than 22 miles, (3) the increases in WATS and private line interexchange services as proposed by the Public Staff, and (4) the "flow through" procedure for the 23 jurisdictional companies who would receive additional intrastate revenues as a result of this Order.

However, we do not agree with the majority's findings and conclusions regarding the issue of repression. We feel some of the problems expressed in testimony of witnesses for the independent telephone companies could have at least been dampened, if not totally alleviated, by recognizing the concept of repression. The witnesses for the independent companies testified that past Commission actions which ordered local rates reduced to effect a 100% flow through of projected increases in toll revenues created problems since in almost every instance these expected revenues failed to materialize. In the face of these unfulfilled expectations and/or greater than anticipated increases in expenses, the companies found it necessary to request approval of local rate increases which creates an undesirable yo-yo effect on local rates.

Was there a more logical plan that could have been adopted? We think there was. However, the viability of the plan was greatly diminished (and, in fact, killed in the eyes of the majority) by the incomplete and insufficient testimony Bell presented on repression. Bell presented a

witness who testified that for every 10% increase in rates, revenues would go up by only 7.1%. The witness' testimony was incomplete in two major areas. First, his econometric model used aggregated data; i.e., there was no distinction made between the various calling mileages, time-of-day, or operator-handled vs. station-to-station calls. Secondly, and by far the most important, the witness failed (1) to project growth in intrastate toll calls resulting from increases in real income, population, etc., or (2) to estimate the increased costs associated with the expected growth in toll calls. All of this could have been done and factored back into the test year. So, if you will, the witness gave the Commission a three-legged stool with two legs missing and it collapsed.

Lacking more evidence, the majority either determined that the demand for intrastate toll calling is inelastic; i.e., completely insensitive to price changes or that increased toll calling will fully compensate both for any repressions and for increased expenses associated with the projected increase in toll calling.

In regard to the first possibility, that is, that the demand for toll calling is insensitive to price, we can discard that notion almost out of hand. As an example of price sensitivity, Bell has been a leader in offering reduced rates during off-peak hours and has succeeded in causing significant shifts in usages. Also, numerous economic studies have been made which demonstrate the elasticity of demand for toll service. Finally, ask yourself, as a sample size of one (also assuming you are a typical user of average means), if you would not call distant relatives and friends more frequently or talk longer if the calls were free or one-fourth their present cost. The answer is obvious.

If one assumes that the majority has accepted the likelihood of some price elasticity, but believes that growth in toll calling (due to income changes, population, etc.) will fully compensate both for any repression and for any increased expenses associated with the growth in toll calls, evidence presented in this case regarding the results of previous statewide toll cases clearly contradicts this possibility.

We believe a fairer plan encompassing both "flow through" and "repression" (and we see them somewhat tied together) could have been designed. As did the majority, we would have ordered 100% flow through immediately on all companies except where the additional revenues would have been de minimis. Secondly, as did the majority, we would have recognized the fact that there may be some companies that can prove that the additional revenues are necessary for achievement of a fair rate of return and, therefore, we would permit those companies to maintain an equivalent amount of revenue in its local rates under specific refund provisions pending a show cause hearing within a specified

time period. Thirdly, we would give some limited credit to repression effects based in part on Bell's "one leg of the three-legged stool" testimony, but mostly on the basis of the actual results of the previous statewide toll increases as testified to by numerous independent telephone company witnesses in the hearing. A 1% repression effect would have been the maximum allowed by us in this case (approximately one-third of the amount that was testified to). Lastly, we would have advised the companies that much more comprehensive and nonaggregated data on projected repression effects (including projected increases in growth and expenses) will be necessary in the future. Of all utility services, long distance calling is, no doubt, one of the most sensitive to price changes. For instance, basic telephone service is considered to be almost completely inelastic or insensitive to price changes.

Consequently, if telephone companies are to ever earn close to the rate of return projected for them after imposition of a statewide toll rate increase, then the Commission must do a better job of estimating effects of repression. However, it is difficult to base judgments on sparse evidence similar to that presented in this hearing.

Failing the presentation of more comprehensive and detailed evidence on repression in future toll cases, we can expect the Commission Orders in intrastate toll dockets to result in yo-yo type effects on local rates, less stable earnings for utilities (and consequently more risk to stockholders which normally translates into higher costs for consumers), and more frequent filings for general rate increases with all attendant costs. Whether or not the other state regulatory commissions, who have given consideration to repression effects, do so on the basis of less than complete evidence was not testified to in the hearing and, in fact, is irrelevant. However, this dissent and the majority's decision should be a clear indication that the North Carolina Commission must have more and better evidence on the matter if repression is to be given any recognition at all. Our disagreement with the majority is that we believe that sufficient evidence was presented in this case, considered together with the clear results of actions taken in the previous two intrastate toll cases, to support allowance of a limited credit for repression.

Notwithstanding the above, our comments should not be interpreted to mean that we would necessarily have allowed Southern Bell higher rates in its local case. While it is true that an allowance for repression (which in our minds produces a more realistic projection of the additional dollars to result from the higher toll rates) would reduce the estimated contribution of toll revenues to total revenues, it does not automatically follow that we would have allowed the same overall rate of return to Bell had repression been recognized, and had we served on the panel in Docket No. P-55, Sub 768. Risk effects are certainly reduced when more realistic projections of revenue are used

in determining overall rate of return requirements. It follows, of course, that a lowering of risk lowers rate of return requirements.

Robert K. Koger, Chairman
Leigh H. Hammond, Commissioner

APPENDIX A

DOCKET NO. P-100, SUB 45

Section 9 (9A) FOREIGN EXCHANGE SERVICE

9.1 _____ Telephone Company concurs, except as noted in 9.3 below, in the rates, charges, and regulations governing foreign exchange service as filed by Southern Bell Telephone and Telegraph Company in its General Subscribers Services Tariff, Section A9 and amendments authorized by the North Carolina Utilities Commission or applicable law.

9.2 The principle exchange or switching center of each exchange of this Company is as shown below.

Exchange	Principal Exchange(s) or Switching Center (s)

9.3 (Note exceptions to Southern Bell's regulations here. To be included here are: (1) the grandfathering date for preprincipal switching center regulations if other than November 10, 1966, and (2) for 911 service. Companies without exceptions should not file this paragraph.)

Section 18 (18A) MESSAGE TOLL SERVICE

_____ Telephone Company concurs in the rates, charges, and regulations governing intrastate long distance message telecommunication service including Enterprise service as filed by Southern Bell Telephone and Telegraph Company in its General Subscribers Services Tariff, Section A18 and to amendments authorized by the North Carolina Utilities Commission or applicable law.

Section 20 (20A) PRIVATE LINE SERVICES AND CHANNELS

20.__

a. _____ Telephone Company concurs, except as noted in c. and d. below, in the rates, charges, and regulations governing intrastate interexchange private line services, channels, and equipment as filed by Southern Bell Telephone and Telegraph Company in its Private Line Service and Channels Tariff and amendments authorized by the North Carolina Utilities Commission or applicable law.

b. This tariff includes the local portions as well as the interexchange portions of interexchange channels.

c. Items of equipment or services tariffed individually by this Company are listed below. These rates, charges, and regulations are applicable in lieu of the Southern Bell provisions.

d. The Private Line Service Area and Bands within the exchanges of this Company differ from those of Southern Bell.

(1) The Private Line Service Area includes...

(Describe the P.L.S.A. in relation to the existing Base Rate Area. If a Base Rate Area does not exist, refer to the Exchange Service Area Map on which the P.L.S.A. is identified.)

(2) (Describe bands here; give approximate width of first band outside the P.L.S.A. and any additional bands; identify bands in relation to any existing zones.)

(The Companies should describe in paragraph d. any differences between the area which they designate as the Private Line Service Area and Bands and those same areas described by Southern Bell. If the Company has no base rate area or zones a revision of the Exchange Service Area map must be made in order to identify the P.L.S.A. and Bands. The tariffs should not include the language in parentheses.)

APPENDIX B

DOCKET NO. P-100, SUB 45

Each of the regulated independent telephone companies in North Carolina is to effect revenue flow through consistent with Ordering Paragraph No. 6 in an amount equal to the additional intrastate toll settlements that are estimated to be produced for each company according to the following schedule:

Company	Flow Through Amount
Barnardsville Telephone Company	$ 2,857
Carolina Telephone and Telegraph Company	10,142,995
Citizens Telephone Company	114,111
Concord Telephone Company	489,573
Ellerbe Telephone Company	4,060
General Telephone Company of the Southeast	1,638,045
Heins Telephone Company	248,468
Lexington Telephone Company	66,358
Mebane Home Telephone Company	14,667
Mid-Carolina Telephone Company	59,029
Norfolk Carolina Telephone Company	338,652
*North Carolina Telephone Company	331,290
North State Telephone Company	217,127
*Old Town Telephone Company	99,387
Pineville Telephone Company	1,771
Randolph Telephone Company	8,639
Saluda Mountain Telephone Company	1,263
Sandhill Telephone Company	11,452
Service Telephone Company	3,461
Westco & Western Carolina Telephone Companies	1,334,362

* Now Mid-Carolina Telephone Company

DOCKET NO. P-100, Sub 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Investigation of Intrastate Long Distance, WATS,	) ORDER
and Interexchange Private Line Rates of all	) AMENDING
Telephone Companies Under the Jurisdiction of	) PRIOR
North Carolina Utilities Commission	) ORDER

BY THE COMMISSION: On April 3, 1978, Carolina Telephone and Telegraph Company (Carolina) filed a Motion pursuant to G.S. 62-80 requesting the Commission to alter and amend its Order of March 24, 1978 in this docket so as to provide that the effects of the increased toll rates on Carolina are to be considered in its general rate case (Docket No. P-7, Sub 624) now set for hearing beginning June 6, 1978 and not prior thereto.

On April 12, 1978, the Public Staff filed a Response to said Motion, submitting that timeliness, convenience and economy would be served by the treatment requested by Carolina provided the same protections are given to Carolina's subscribers as are extended to the subscribers of the other jurisdictional companies.

Upon consideration of the foregoing Motion and Response, and of its Order of March 24, 1978, the Commission is of the opinion that said order should be altered and amended as set forth below.

IT IS, THEREFORE, ORDERED that decretal paragraph 6 of the Order issued March 24, 1978 in the above docket, be, and is hereby, amended by adding the following provision:

"Further provided, however, that (1) the effect of additional toll revenues approved herein on Carolina Telephone and Telegraph Company will be considered as part of pending rate case proceedings in Docket No. P-7, Sub 624, now set for hearing beginning June 6, 1978, consistent with the treatment herein afforded other utilities with rate cases pending, and (2) Carolina shall file an Undertaking to refund or rebate any and all revenues collected on or after April 3, 1978 which the Commission finds after hearing should be passed through to the company's subscribers."

ISSUED BY ORDER OF THE COMMISSION.

This 14th day of April, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. P-100, Sub 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Intrastate Long Distance, WATS, and Interexchange Private Line Rates of all Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission	)	ORDER REQUIRING SUPPLEMENTAL DATA

BY THE COMMISSION: On May 1, 1978, the Public Staff filed a Motion in this Docket requesting that the Commission issue an Order requiring all independent telephone companies seeking to retain the additional toll revenues arising from the approved increase in toll rates granted in this Docket (Order issued March 24, 1978), to file certain financial data. The Commission being of the opinion that the data requested is consistent with the Commission's Order of March 24, 1978, and is essential to a fair and reasonable determination of the companies' actual earnings on book common equity concludes that the Public Staff's Motion should be allowed.

IT IS, THEREFORE, ORDERED as follows:

1. That all independent telephone companies, except Carolina Telephone Company and Norfolk-Carolina Telephone Company, seeking to retain the additional toll revenues arising from the approved increase in toll rates granted in this Docket (Docket No. P-100, Sub 45) shall file within 10

days from the date of issuance of this Order the following data:

(a) The data requested in Appendix A attached hereto - such data is to be presented in the format of Appendix A.

(b) A comparative income statement for the calendar years 1976 and 1977.

(c) A comparative balance sheet as of December 31, 1977, for the calendar years 1976 and 1977.

2. That Norfolk and Carolina Telephone Company shall file within 10 days from the date of issuance of this Order the data requested in Schedules 2-1 and 2-2 of Appendix A (such data is to be presented in the format of Schedules 2-1 and 2-2 of Appendix A); a comparative income statement for the calendar years 1976 and 1977; and a comparative balance sheet as of December 31, 1977, for the calendar years 1976 and 1977.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of May, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

DOCKET NO. P-100, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Intrastate Long Distance, WATS and Interexchange Private Line Rates of all Telephone Companies under the Jurisdiction of the North Carolina Utilities Commission	) ORDER) ESTABLISHING) "FLOW THROUGH") REQUIREMENTS)

BY THE COMMISSION: On March 24, 1978, the Commission issued its Order authorizing an increase in the level of intrastate toll rates. In Ordering Paragraph No. 6 the Commission ordered as follows:

"All telephone companies shown in Appendix B shall file new tariffs to reduce local service rates by the amounts of the additional toll revenues they will receive under this Order, as shown in Appendix B attached to and incorporated herein as a part of this Order. Provided, however, that in compliance with due process of law, for an interim period not to exceed six months after the issuance of this Order, any company shown in Appendix B

which files exceptions to this flow through provision within 10 days after issuance of this Order with an affidavit showing irreparable injury therefrom and requesting the right to be heard thereon may file with said reduced tariffs an application for temporary interim stay of such rate reduction or a part thereof together with a bond or undertaking for refund or rebate of said ordered reductions or any part thereof which the Commission finds after hearing should pass through to the company's customers. The affidavit and application for stay shall include or be followed within not more than 30 days by all schedules required to show that such revenues will not allow the companies to achieve a level of actual (average) earnings, measured in terms of return on common equity, greater than the end-of-period level last found fair by this Commission in the companies' last general rate cases, prepared on a test period of the 12 months ending December 31, 1977, adjusted solely for the annual effect of any rate increase going into effect during said test year. The calculation of the actual (average) return on common equity shall be calculated in a manner consistent with the findings of the Commission in said last general rate cases."

Southern Bell Telephone and Telegraph Company, Central Telephone Company, and United Telephone Company of the Carolinas, Inc., were excepted from filing "flow through" tariffs for reasons cited by the Commission in the March 24, 1978, Order. Carolina Telephone and Telegraph Company was granted a similar exception by Order of April 24, 1978.

The following companies did not request an interim stay of flow through and have filed tariffs to flow through the increase in toll rates to their customers:

Lexington Telephone Company
Concord Telephone Company
North State Telephone Company
Sandhill Telephone Company
Pineville Telephone Company

The other independent telephone companies requested and received interim stays of the flow through provisions.

On May 1, 1978, the Public Staff filed a Motion to require certain financial data from all companies seeking to retain the additional toll revenue arising in the March 24, 1978, Order. Said Motion was granted by Order issued May 4, 1978.

On July 25, 1978, an Order was issued which established the procedure for receiving testimony and which stated that the purpose and scope of the hearing was to determine the following:

"1. Whether the data submitted by the respondent companies is accurate;

2. Whether the data was submitted in the prescribed format;

3. Whether the data was prepared in a manner consistent with the findings of the Commission in the companies' last general rate cases;

4. Whether the additional toll revenues in Appendix B of the March 24, 1978, Order will allow the companies to achieve a level of actual (average) earnings, measured in terms of common equity, greater than the end-of-period level last found fair by the Commission in the companies' last general rate cases."

Hearings were held on August 1 and 2, 1978. All parties were present and represented by counsel.

Each of the independent telephone companies seeking to retain the increased toll revenues offered testimony as did the Public Staff.

The testimony of the independent telephone companies' witnesses reviewed the service being provided by their respective companies; the reductions in local rates proposed to accomplish flow through, if required; and what they perceived as the impropriety of using actual earnings as the yardstick to measure the impact of the toll rate increase. Each company witness presented end-of-period returns on original cost common equity and investment and contended that these returns should be used to evaluate the impact of the toll rate increase.

Public Staff witness Coleman presented calculations of the actual earnings of each participating independent telephone company. Although he testified that the returns found fair in each company's last general rate case should not be used to determine irreparable injury, witness Coleman agreed that actual earnings represented a valid standard for determining whether or not irreparable injury would occur if the entire toll increase was flowed through to the customer.

Mr. Coleman noted that the end-of-period earnings filed by the various companies failed to consider that the settlement ratio of 11.01% used by the Commission in the March 24, 1978, Order had, on an annualized basis, reached 14.46% in April and 15.35% in May.

The estimated increases in toll revenues as set forth in Appendix B of the Commission's March 24, 1978, Order and the actual returns before and after the toll rate increase calculated by witness Coleman, prepared in a manner consistent with Paragraph No. 6 of the March 24, 1978, Order, are as follows:

Company (a)	Increase In Toll Revenue* (b)	Actual Returns on Equity Before Toll Increase (c)	Actual Returns on Equity After Toll Increase (d)
Barnardsville Telephone Company	$ 2,857	(3.41)	(1.66)
Citizens Telephone Co.	114,111	12.00	14.93
Ellerbe Telephone Co.	4,060	13.65	14.20
General Telephone Co. of the Southeast**	1,638,045	12.60	15.02
Heins Telephone Co.	248,468	11.68	16.24
Mebane Home Telephone Company	14,667	19.80	21.11
Mid-Carolina Telephone Company	59,029	15.52	16.06
Norfolk Carolina Telephone Company	338,652	12.27	15.01
North Carolina Telephone Company	331,290	6.46	10.92
Old Town Telephone Co.	99,387	14.51	16.66
Randolph Telephone Co.	8,639	12.89	13.87
Saluda Moutain Telephone Company	1,263	11.71	12.15
Service Telephone Co.	3,461	(7.79)	(5.61)
Westco Telephone Co.**	453,683	9.67	12.78
Western Carolina Telephone Company**	880,679	8.60	11.42

* Based on 11.01% settlement ratio.
**Adjusted to make calculation consistent with Commission's Orders as agreed to on cross-examination of witness Coleman.

The Commission having very carefully examined and considered the evidence and the entire record in this docket makes the following

FINDINGS OF FACT

1. To the extent that the estimated additional intrastate toll revenues to be realized from the approved increase in toll rates in this docket (Docket No. P-100, Sub 45) will allow the companies to achieve a level of actual earnings, measured in terms of return on common equity, greater than the end-of-period level last found fair by this Commission in the companies' last general rate cases, calculated consistent with Ordering Paragraph No. 6 of the Commission's March 24, 1978, Order, such revenues should be flowed through to the customers of the telephone companies as a reduction in local service rates.

2. The additional intrastate toll revenues to be realized from the increase in toll rates as described hereinabove for the companies in the amounts set forth below will result in a level of actual earnings greater than the end-of-period level last found fair by this Commission and,

therefore, should be flowed through to the customers of such companies as a reduction in local service rates:

Company (a)	Flow Through Amount (b)
General Telephone Company of the Southeast	$1,288,936
Heins Telephone Company	56,898
Mebane Home Telephone Company***	14,667
Mid-Carolina Telephone Company***	59,029
Norfolk Carolina Telephone Company***	338,652
Old Town Telephone Company****	80,150
Westco Telephone Company	221,278
Western Carolina Telephone Company	85,542

*** Entire amount of increase in intrastate toll revenue approved in Docket No. P-100, Sub 45.
**** Now Mid-Carolina Telephone Company.

3. The telephone companies set forth hereinabove in Finding of Fact No. 2 should be required to refund to each of its customers the additional intrastate toll revenues arising from the increase in intrastate toll rates approved in Docket No. P-100, Sub 45, previously being collected under bond pursuant to G.S. 62-135, plus interest at the statutory rate. Companies who are herein required to flow through 100% of said revenues should be required to refund 100% of such revenues collected under bond, and companies required to flow through less than 100% of said revenues should be required to refund such revenues on a pro rata basis. Pro rata refunds of revenues collected under bond for each respective company should be based upon the percentage relationship that the amount of flow through required by the Commission bears to the total additional intrastate toll revenues estimated to be produced from the increase in toll rates as set forth in Appendix B of the Commission's Order of March 24, 1978. Such companies should be required to file with this Commission a full and complete report showing the disposition of the refunds required herein within 90 days after the date of this Order.

4. The telephone companies hereinabove required to flow through 100% of the additional toll revenues estimated to be produced from the increase in toll rates approved in Docket No. P-100, Sub 45, and the companies hereinabove required to flow through less than 100% of said revenues shall file for Commission review and approval within 10 days from the date of this Order a schedule of rate reductions as required to accomplish such flow through.

CONCLUSIONS

The Commission has analyzed the testimony and exhibits filed by the companies and the Public Staff. Without exception, the end-of-period data filed by the companies is an effort to bring earnings to an end-of-period level.

While all companies made either complete or partial adjustments to expenses, no company made adjustments to annualize toll revenue for the improvement in the toll settlement ratio from 11.01% originally estimated by the Commission to the actual annualized levels of 14.46% for April and 15.35% in May. A statement of end-of-period earnings which ignores such a significant item must be rejected, especially since such end-of-period data has not been audited or reviewed in depth by anyone other than the company. Accordingly, the Commission concludes that the end-of-period earnings presented at the August 1 and 2, 1978, Hearings should not be used to measure irreparable injury.

Calculations of the actual earnings of each company were provided in response to Ordering Paragraph No. 6 of the Commission's March 24, 1978, Order. These actual earnings were adjusted by Public Staff witness Coleman to correct for errors and to give effect to adjustments made for excess capacity and excess profits from affiliated intercorporate transactions in the last rate case of certain companies.

Actual earnings of the companies were not established for the purpose of making total cost of service determinations, thereby establishing total revenue requirements, for such a purpose would in substance and in fact require that a general rate case proceeding be initiated for each company seeking to retain the additional revenues arising from the approved increase in intrastate toll rates. Of course, it would then be necessary to develop an adjusted end-of-period level of earnings, determine a fair value rate base, and establish a fair rate of return based on economic conditions as they now exist.

The sole purpose of obtaining actual earnings data was to determine if irreparable injury would result from requiring complete flow through of the additional toll revenues. The term "irreparable injury" contemplates an event which will occur from which there can be no recovery absent appropriate action. The Commission does not believe such irreparable injury will occur from an Order requiring flow through based upon the criteria set forth in Finding of Fact No. 1.

As demonstrated by Coleman Exhibit 16, the actual returns on common equity earned by the companies before the toll increase ranged from a positive 19.80% to a negative 7.79% for the 12-month period ended December 31, 1977, and after the toll increase such returns ranged from a positive 21.11% to a negative 5.61%. The average return before the toll increase was 10.03% and after the toll increase was 12.23%.

The Commission therefore concludes that it is reasonable and proper to require that such revenues should be flowed through to the customers of the telephone companies as a reduction in local service rates to the extent the estimated additional intrastate toll revenues to be realized from the approved increase in toll rates in this docket (Docket

No. P-100, Sub 45) will allow the companies to achieve a level of actual earnings, measured in terms of return on common equity, greater than the end-of-period level last found fair by this Commission in the companies' last general rate cases, calculated consistent with Ordering Paragraph No. 6 of the Commission's March 24, 1978, Order.

The Commission further concludes that no flow through should be required of Saluda Mountain Telephone Company since the level of estimated additional annual revenues it will receive from the approved intrastate toll rate increase is de minimus.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the companies set forth below shall flow through to their customers as a reduction in local service rates the additional intrastate toll revenues to be realized from the approved increase in toll rates in this docket (Docket No. P-100, Sub 45) in the amount as indicated in the schedule below:

Company (a)	Flow Through Amount (b)
General Telephone Company of the Southeast	$1,288,936
Heins Telephone Company	56,898
Mebane Home Telephone Company***	14,667
Mid-Carolina Telephone Company***	59,029
Norfolk Carolina Telephone Company***	338,652
Old Town Telephone Company****	80,150
Westco Telephone Company	221,278
Western Carolina Telephone Company	85,542

*** Entire amount of increase in intrastate toll revenue approved in Docket No. P-100, Sub 45.
**** Now Mid-Carolina Telephone Company.

2. That the telephone companies set forth hereinabove in Ordering Paragraph No. 1 shall refund to each of its customers the additional intrastate toll revenues arising from the increase in intrastate toll rates approved in Docket No. P-100, Sub 45, previously being collected under bond pursuant to G.S. 62-135, plus interest at the statutory rate. Companies who are herein required to flow through 100% of said revenues shall refund 100% of such revenues collected under bond, and companies required to flow through less than 100% of said revenues shall refund such revenues on a pro rata basis. Pro rata refunds of revenues collected under bond for each respective company shall be based upon the percentage relationship that the amount of flow through required by the Commission bears to the total additional intrastate toll revenues estimated to be produced from the increase in toll rates as set forth in Appendix B of the Commission's Order of March 24, 1978. Such companies shall file with this Commission a full and complete report showing

the disposition of the refunds required herein within 90 days after the date of this Order.

3. That the companies hereinabove required to flow through 100% of the additional toll revenues estimated to be produced from the increase in toll rates approved in Docket No. P-100, Sub 45, and the companies hereinabove required to flow through less than 100% of said revenues shall file for Commission review and approval within 10 days from the date of this Order a schedule of rate reductions as required to accomplish such flow through.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 316
DOCKET NO. E-7, SUB 231
DOCKET NO. E-22, SUB 216

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Carolina Power & Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	) ORDER INCORPORATING PLANT PERFORMANCE REVIEW PROCEDURE INTO FUEL COST RATE ADJUSTMENTS PROCEEDINGS [G.S. 62-134(e)] AND ORDER ESTABLISHING A RULEMAKING FOR FUEL COST RATE ADJUSTMENTS PURSUANT TO G.S. 62-134(e)
Application by Duke Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	)
Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	)

PHASE II

PLACE: Commission Hearing Room, Raleigh, North Carolina

DATES: November 21, 22, and 28, 1977, and March 9, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Sarah Lindsay Tate, Leigh H. Hammond, John W. Winters, Robert Fischbach, and Edward B. Hipp

DOCKET NO. E-2, SUB 316

APPEARANCES:

For the Applicant:

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For the Using and Consuming Public:

Jerry B. Fruitt, Chief Counsel - Public Staff, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Jesse C. Brake and Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

DOCKET NO. E-7, SUB 231

APPEARANCES:

For the Applicant:

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For the Using and Consuming Public:

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Jesse C. Brake and Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

DOCKET NO. E-22, SUB 216

APPEARANCES:

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Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission as a result of a proposal filed by the Public Staff during the October 1977 monthly fuel adjustment hearings for Carolina Power and Light Company, Duke Power Company, and Virginia Electric and Power Company (the Companies). The

Companies presently apply for monthly adjustments in their respective fuel charges pursuant to North Carolina G.S. 62-134(e) and Commission Rule R8-45, both of which were ratified and adopted, respectively, in 1975. In its prefiled testimony, the Public Staff recommended a modification in the method used to determine monthly adjustments to fuel charges. In essence, the modification would introduce the concept of generating plant performance criteria and evaluation into the procedure of arriving at an approved fuel clause rider. Upon motion of the parties, the Public Staff's recommended modification was separated from the regular monthly hearing and was set as Phase II in this docket for separate and consolidated hearings.

Hearings, in the format of a generic examination of the issues, were held on November 21, 22, and 28, 1977 with oral arguments on March 9, 1978. The Public Staff presented one witness, Andrew W. Williams, Director of the Electric Division of the Public Staff. Duke Power Company (Duke) presented B. B. Parker, Duke President and Chief Operating Officer; Austin C. Thies, Duke Senior Vice President, Production and Transmission; and W. R. Stimart, Duke Controller. Carolina Power and Light Company (CP&L) presented Shearon Harris, Chairman of the CP&L Board; Thomas R. Hughes, Senior Consultant of H. Zinder & Associates, Inc.; Edward G. Lilly, Jr., CP&L Senior Vice President and Chief Financial Officer; Lynn W. Eury, CP&L Manager of System Operations and Maintenance; and James M. Davis, Jr., CP&L Manager of Rates and Service Practices. Virginia Electric and Power Company (Vepco) presented William W. Berry, Vepco Senior Vice President, Commercial Operations; and Gary R. Keesecker, Vepco Manager - Power Supply.

PART I - PLANT PERFORMANCE REVIEW

The Public Staff, through testimony of Mr. Williams, stated that the present formula allows computation of increased and decreased fuel costs from a given base cost on a ¢/Kwh basis which is directly applicable to individual Kwh sales. Properly monitored, the formula accurately tracks changes in the cost of all fuel, nuclear as well as fossil, and the energy portion of purchased and interchange power. This formula provides the utility with protection from changes in fuel costs beyond its control, and because the practical application of the formula results in a lag in collection of expenses, the utility is normally somewhat behind in its recovery of fuel expenses and this provides a degree of incentive to the utility, in a rising cost fuel market, which has been characteristic of the last few years. This is in addition to those incentives that are presumed to be inherent in an efficiently managed utility and, hopefully, results in the minimization of each cost to the degree that it accomplishes overall cost reductions. The fuel adjustment clause as presently constituted, together with the close monitoring of the utilities' fuel purchasing practices by the Public Staff and the Commission, does not operate to increase a utility's profit or its rate of

return. This fact has been confirmed by an historical review of the presently operating fuel adjustment clause procedure.

However, the present fuel clause procedure inherently adjusts for changes in the mix of operation between nuclear, coal, oil, and hydro and changes in heat rate (efficiency of converting primary fuel to electricity), as well as for price changes in purchased fuel.

The Public Staff testified that under current procedures the Public Staff is able to adequately monitor the procurement practices of the Companies and the heat rate of the Companies' plants but that the Public Staff is quite dissatisfied with its ability, within the context of a monthly fuel adjustment proceeding, to evaluate power plant performance and the resultant impact on fuel costs.

The Public Staff proposed that the Commission adopt a procedure that would establish an automatic evaluation of power plant performance so that only fuel costs resulting from "acceptable" performance would be charged through the fuel factor but that costs resulting from "substandard" operation could be passed along only with specific Commission approval. Essentially, the Public Staff recommended a procedure whereby the Companies would be expected to operate their base load plants, both fossil and nuclear, at predetermined capacity factors, and if they failed to achieve the factors, then these capacity factors would be pro-formed into a fuel adjustment recovery formula, unless the Companies could present evidence sufficient to convince the Commission to allow the full recovery of expenses.

The three Companies presented evidence in opposition to the Public Staff proposal. The Companies' witnesses testified that the proposed formula gives rise to an unwarranted presumption of mismanagement, usurps management's prerogative to make decisions, creates operating disincentives, places too much reliance on capacity factors as valid measures of efficiency, creates unmanageable regulatory requirements, and alarms investors.

Duke further testified on the possibility of amortizing the costs associated with nuclear refueling over a longer time period and the establishment of an upper and lower limit on monthly fuel cost variations between which no increases or decreases would be made.

FINDINGS OF FACT

1. Carolina Power and Light Company, Duke Power Company, and Virginia Electric & Power Company are public utilities organized and existing under the laws of the State of North Carolina subject to the jurisdiction of this Commission.

2. The Companies presently recover fuel expenses through their base rates plus monthly fuel adjustments which are filed and approved pursuant to N.C.G.S. 62-134(e) and N.C.U.C. Rule R8-45.

3. The Companies file for monthly fuel adjustments under a formula approved by this Commission. Adjustments are allowed only after duly-noticed public hearings. At these hearings sworn testimony is given by the parties, and the Public Staff and Attorney General represent the using and consuming public. Other interested parties are permitted to intervene.

4. The factors determining total fuel costs to a utility are the procured cost of fuel, heat rate, and performance of its generating plants.

5. Any procedure for review of fuel costs should ensure that all components of fuel costs are thoroughly reviewed.

6. Existing procedures adequately ensure review of procurement costs and heat rate but do not provide the Commission with an effective means of evaluating power plant performance and the resultant impact on fuel costs.

7. A reasonable and appropriate way to review plant performance is to (1) determine a reasonable and attainable capacity factor objective for the Companies over a defined period and on a systemwide basis, (2) require the Companies to present regular reports as to whether they are achieving this objective, and (3) if they are not achieving the stated objective, to conduct hearings to determine the causes therefor, with proper consideration given to proforming or disallowing the appropriate portion of unreasonably expended fuel costs attributable to imprudent management from the fuel factor and/or taking other appropriate remedial measures.

8. A capacity factor of 60% on a systemwide basis for base loaded nuclear plants is an objective which the Companies should seek to achieve and failure to achieve this objective on both a six- and 12-month period requires a hearing to determine the reasons and causes therefor.

9. The Commission may treat excessive fuel costs, in whole or in part, resulting from an outage which is directly caused by imprudent management as an adjustment to the otherwise estimated fuel costs to be recovered in subsequent periods depending upon the degree of such imprudent management.

10. Upon finding imprudent management to be the cause of an outage(s), the proformance or disallowance of any resultant excess costs shall be determined after considering the length of the outage, the cost of fossil, hydro, or purchased power replacing the down unit, the lowest capacity level at which nuclear generation "breaks even" economically

with efficient coal-fired generation, the prior performance of the units involved, the newness of the units, and the level of responsibility exercised by the utility, as well as other relevant factors suggested by the parties.

CONCLUSIONS

The Companies are authorized by G.S. 62-134(e) and Commission Rule R8-45 to seek monthly adjustments based solely upon the increased cost of fuel. This proceeding is in the form of a rule-making investigation to determine whether the currently used procedures adequately allow the Commission to monitor fuel costs and to determine whether fuel charges are being incurred in a cost efficient manner.

Fuel costs vary from month to month as a function of three basic components: procured fuel costs, the efficiency of units (heat rate), and plant performance (generation mix). The Commission finds and concludes that currently used procedures are adequate to allow the Commission to monitor the first two of these components. However, the Commission concludes that the procedures do not adequately monitor changes in fuel costs resulting from changes in generation mix arising from poor individual plant performances.

Generation mix refers to the proportionate utilization of the coal, oil, and nuclear plants (hydro is minimal) on the system which provides the total generation. These three types of plants have different fuel costs, and, consequently, the burned cost of fuel at any given time will depend on which plants are being used to produce power. Nuclear plants are the most expensive to install, but, once built, they are the least expensive to operate. Large base load coal plants are the next most expensive to install and the next least expensive to operate. Nuclear fuel costs considerably less than coal or oil, and, therefore, the more total Kwhs produced by nuclear plants, the lower the total system fuel costs. Due to the high cost of building nuclear plants, and due to their low fuel costs, the efficient dispatch of power requires that nuclear plants run at all times consistent with sound safety and operational practices. When available, large nuclear plants are normally run 24 hours a day at the upward bounds of their capacity. For that reason, they are generally referred to as "base loaded" plants. Similarly, each utility presently has one or more large coal-fired units that are normally operated as base loaded plants. However, due to their lower capacity costs and operational considerations, these base loaded fossil plants may also be flexibly operated to carry intermediate loads from time to time.

When a nuclear plant suffers an outage, the Kwhs it would have produced must be replaced by coal-fired or oil-fired units which have fuel costs considerably greater than nuclear units. During certain past periods when fuel prices have been relatively stable, fluctuations in monthly fuel

adjustment charges have been due, primarily, to such changes in generation mix.

The presently used fuel formula and procedures largely provide financial insulation for the Companies against changes in generation mix. If a large nuclear unit is out for six weeks during a peak season, the required supply of electricity will typically be provided by a coal-fired unit. The company simply must burn more coal, and the increased cost is passed to the consumers in the form of an increased fuel surcharge.

Other than the incentive to do a good job in the face of regulation and audits by regulatory bodies, together with the lag which normally delays fuel cost recovery, the Companies have little financial incentive to guarantee that generation mix is at all times the most economical possible. Although there is no evidence to indicate that the Companies have failed to operate their systems in the most cost efficient manner, and no such inefficiency can be, nor will be, presumed, this Commission believes that, in the interest of public confidence and sound regulatory practice, a means should exist to provide for better monitoring of costs and to provide additional incentives for better plant performance. Simply stated, the Commission believes that even the best management is subject to being less diligent in saving costs if automatically shielded from any mistakes that might be made.

The Commission believes that the current review procedures and evaluations should continue for the purpose of monitoring all those fuel costs which are attributable to factors other than plant performance and that an additional procedure providing for hearings and review of plant performance should be instituted on a semiannual basis. The Commission believes that an effective procedure for review should focus on the establishment of a Commission objective for plant performance and that a detailed review be mandated semiannually only for a company when it fails to meet this objective. This objective serves two purposes: (1) it serves notice to the Companies of the Commission's expectations for plant performance under normally expected operating conditions and (2) it serves as a trigger, or flag, for review. Such a procedure will give the Companies a continuing incentive to ensure that their plant performance is maintained at a high level. Again, the Commission wishes to make it clear that no presumption of inadequate performance will arise from a failure to achieve the objective. As discussed later in respect to Duke, optimal and economic operating efficiency may dictate that the capacity factors for nuclear plants be deliberately reduced at certain times. The objective established herein serves only as a flag that further investigation is necessary and any finding of inadequate performance must be based on evidence given at the hearing.

The Commission finds and concludes that the Companies can be reasonably expected to seek, as an objective, to operate base loaded nuclear plants at a 60% capacity factor on a systemwide basis. The Commission concludes that this objective is reasonable and attainable in that 60% is near the nationwide average capacity factor for nuclear plants. The Companies should work toward achieving this goal on a continuing basis.

The Commission concludes that semiannual hearings should be scheduled so that if a company has failed to achieve the objective on both a six-month and 12-month moving average basis, a review will be held for the purpose of examining, in detail, outages which have prevented it from reaching the objective.

The Commission has chosen to limit the capacity factor objective which triggers examination to base loaded nuclear plants. Testimony by the utilities demonstrated that setting of a predetermined minimum capacity objective for the fossil base loaded plants might create a disincentive for efficient operation of the overall system.

The utilities also testified that implementation of a predetermined capacity factor objective on nuclear generation might create disincentives for overall efficient and economical operation of their systems. For example, Duke testified that it was more economical to reduce its nuclear generation at times and run its fossil units at some minimum level in order to have both the nuclear and the fossil units available for an upcoming higher demand period. Notwithstanding this testimony, the Commission sees a major difference between the operation of base loaded fossil and nuclear plants in that economic dispatch of the system generally dictates that nuclear units be operated to the maximum extent possible. The exceptions to this general practice should be rare and should affect the average capacity factor only by a slight amount. The Commission will accept evidence in its initial plant performance review hearing (or for that matter at a prior or subsequent time) on whether this should be taken into account in some appropriate manner.

The Commission wishes to make it clear to all parties that, once a hearing is triggered and scheduled, the hearing will not be limited to investigating and determining possible remedial measures for poor plant performances. While this will be a central and important matter, the Commission, upon finding from the evidence that any outage was caused by imprudent management, shall determine to what extent any resultant excess fuel expenses shall be disallowed as an adjustment to the fuel costs to be charged in subsequent periods. Such consideration shall be made only after a sound exercise of the Commission's judgment based upon evidence and records on file with the Commission. In determining the amount of this adjustment, the Commission considers the following as relevant factors: the time of

the outage, its duration, the magnitude of the cost, the minimum capacity level at which nuclear generation "breaks even" with coal-fired generation on an economic basis, prior performance of the unit, the vintage of the units, and the general diligence and responsibility of management. The Commission will also consider other relevant factors suggested by the parties. Examination of outages will be limited to the most recent six-month period and this period will serve as the test period for any adjustments needed to be made to rates in the event imprudent management has been shown.

In the event that the hearings do not disclose imprudent management by the Companies, the hearings will still be beneficial as a means for determining if the plants are being operated in an efficient, safe, and economical manner. The hearings should also permit the exchange of more technical information on experienced or anticipated problems and how these problems might be avoided.

The Commission recognizes that, should any of the Companies go to an 18-month nuclear refueling cycle, appropriate adjustments would have to be made for that company.

The Commission concludes that a system for review of nuclear power plant operation should be instituted. The system should include a trigger mechanism, automatic utility reporting, a Public Staff review, a burden on the utility to support its actions in a hearing before the Commission, and a potential adjustment for recovery of some or all of the subject expenses should imprudent management be determined. The trigger mechanism will recognize that plant performance will vary from time to time as a part of normally expected operations and does not operate each time performance level drops for a short period of time.

The Commission concludes that a performance evaluation plan must include appropriate procedures to meet the test of due process, and construes the Public Staff's proposal as being intended to operate in that manner. The Commission further considers the plan herein adopted to have the same ultimate objective as the plan offered by the Public Staff, with modifications in the procedures to determine appropriate sanctions.

PART II - PROPOSED RULE CHANGE ON PROCEDURE

On June 17, 1975, the Commission issued an "Order Promulgating Rules of Procedure For Fuel Based Electric Rate Case" wherein current Rules R8-45 and R1-36 were established. The Commission on its own motion and in conjunction with these Phase II proceedings proposes that these rules be modified.

Preliminary Findings As To Rule Modification

1. The Commission finds that, barring adverse effects, either to consumers or to the Companies, electric rates charged to consumers should be as simple, understandable, and practical as possible.

2. The Commission has received numerous complaints concerning the present method of monthly changes in the fuel adjustment charge. This method has created much confusion and misunderstanding.

3. One means of reducing the confusion and misunderstanding would be to change the procedure to allow for change in the fuel adjustment charge only once each six months (barring any major fuel cost changes). Semiannual hearings could be scheduled to review the level of fuel charges, to revise the basic rate structures if changes have occurred, and to review in detail the procurement practices of the utilities and the efficiency and performance of the generating units, consistent with Part I. The first semiannual hearing could be scheduled for December 1978, with the present monthly hearings routinely scheduled through that date.

Preliminary Conclusions and General Guidelines For Rule Modification

With respect to the existing monthly fuel adjustment hearings and the subsequent changes in power rates resulting from these hearings, the Commission believes that the frequency of such changes in rates should be minimized for the convenience of the consumer in anticipating the level of his power bill. Also, it has been the experience of the Commission that the fuel adjustment charge component shown on the customer's bill has been widely misunderstood. Many consumers interpret the fuel adjustment charge to be the total fuel component cost that the utility incurs in generating electricity. Slight changes in total costs of fuel can result in major changes in the incremental fuel adjustment charges on bills, particularly when nuclear plants are being refueled. In such event many customers then, understandably, inquire as to how fuel costs can go up at such a tremendous percentage rate (these percentages can easily be in the hundreds) over short periods of time. As a result of such developments, much needless distrust and disharmony develop between the utility and its customers. Hence, the Commission desires to move toward consolidating these monthly hearings into a semiannual plant performance hearing which is subject to being scheduled pursuant to this Order.

The Commission recognizes, however, that G.S. 62-134(e) provides protection from changes in fuel cost to both the consumers and the Companies and that either the Companies or representatives of consumers (such as the Public Staff and the Attorney General) may file applications at any time to

effect a change in the fuel cost adjustment rider. If, however, these filings were made too frequently and in instances where fuel costs have changed only slightly, public misunderstanding would once again result. Thus, the Commission proposes that a narrow bracket or range of slight fluctuations in fuel costs, denominated as a "dead band," be established for fuel adjustments within which no action ought to be taken to modify a current fuel adjustment rider. Based on its own review of its files and past monthly fuel adjustments for the Companies, the Commission believes that a "dead band" can be appropriately established.

It is anticipated that the positive and negative fluctuations within this band will largely cancel out over time. However, because of the extremely fluid cost situation resulting from the mine workers strike, the Commission proposes that the present monthly hearing schedule, using three-month averages as test periods for determining a subsequent month's fuel adjustment charges, should be continued until December 1978. At that time, implementation of the six-month hearing schedule, using a six-month test period, may be instituted. For the initial hearing only, both a six-month and a three-month base test period for fuel costs should be considered in order to ensure that the effects of the miners' wage settlements are reflected in the subsequent fuel clause collection period.

If this procedure were to be instituted, the Commission would retain the right to allow adjustments on a monthly basis if radically changing circumstances so require. The Commission proposes that the monthly fuel costs as now determined (which are based on a test period consisting of the running average of cost data for the most recent three months for which data are available) should continue to be submitted each month to the Commission.

The Commission has examined the fluctuations of the fuel adjustment charge over the last three years and proposes that, if a new six-month schedule were begun, monthly adjustments between regularly scheduled semiannual adjustments ought not to be allowed unless unexpected rapid changes in fuel costs occur and the fuel adjustment charge computed with a three-month base differs from the fuel adjustment charge in effect by more than 0.100¢/Kwh (1.00 mil/Kwh).

If the fuel adjustment charge computed on a three-month base were more than 1.00 mil/Kwh below the effective charge, the Commission proposes that the change would be required. It is anticipated that hearings would not be necessary on such rate decreases.

The Commission further proposes that at these six-month hearings, the fuel cost riders should be zeroed out or, in other words, incorporated in the basic tariffs.

If the change in fuel costs for any month, computed as stated above, does not exceed the 1.00 mil/Kwh limit, then the Commission would expect neither the utility nor any other party to file for a change in the fuel cost component in the electric rates. Variations outside the band are expected to be handled as described above. The Commission reiterates its conclusion that any party would have the right to file for a change in the fuel cost component of the rates without regard to any preset hearing schedule if at any time the utility or any party believes that the band is not operating fairly under the general provisions of G.S. 62-134(e).

The Commission anticipates that the initial hearing under the six-month schedule would occur in early December 1978. With the possible exception of the initial hearing, the most recent six months of actual fuel data would be used as a base for determining the next six-month fuel charge pursuant to G.S. 62-134(e). Simply stated, the Commission proposes to modify current procedures so that: (1) the Commission would use a six-month base period rather than three, (2) the Commission would schedule hearings every six months, rather than monthly, with possible interim hearings if emergencies arise, and (3) the Commission would update the basic rates each six months to incorporate changed fuel costs rather than updating these rates only in general rate cases. The latter would prevent having large positive or negative fuel adjustment riders which tend to be both confusing and unsatisfactory to consumers in terms of being able to plan on the probable level of electricity costs.

It is possible that the use of a six-month test period and billing period would result in less mismatch of fuel revenues and fuel expenses than the present procedure. This may come about by elimination of some of the seasonal variations inherent in using the present three-month base period. The Commission concludes that Duke and Vepco, which have presently open rate case dockets, should be ordered immediately to prepare comments and data concerning the impact of this proposed change, if any, and file them in this docket and as late exhibits in their current general rate proceedings and that CP&L should file such data in this docket only.

The Commission further concludes that CP&L, Duke, and Vepco, the Public Staff, the Attorney General, and any other interested parties should be allowed to file with the Commission Briefs and/or Memoranda of Law on the merits and disadvantages of such a change and on the Commission's authority to institute the necessary steps to convert to a six-month hearing schedule.

IT IS, THEREFORE, ORDERED:

Part I

1. That the Base Load Power Plant Performance Review Plan attached in Appendix A shall be instituted effective June 1, 1978. The first filings under this plan are due no later than June 30, 1978.

Part II

1. That Duke Power Company, Carolina Power & Light Company, and Virginia Electric and Power Company shall each file with this Commission on or before June 30, 1978, Briefs and Memoranda of Law and testimony and exhibits relating to incorporation of the semiannual fuel cost review system, attached in Appendix B, into Commission Rules R1-36 and R8-45; that the Public Staff and other intervenors shall file their testimony and exhibits on or before July 7, 1978; and that this matter shall be consolidated for hearing with the July hearings to set the August fuel adjustment charges.

2. Duke and Vepco shall each file data concerning the impact of this proposed change both in this docket and as late exhibits in their current general rate proceedings.

3. Notice shall be provided in accordance with Appendix C attached hereto and in conjunction with Notice required for the June and July Hearings pursuant to G.S. 62-134(e).

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of May, 1978.

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

APPENDIX A
BASE LOAD POWER PLANT PERFORMANCE REVIEW PLAN

I. SEQUENCE OF EVENTS:

1. Carolina Power & Light Company, Duke Power Company, and Virginia Electric and Power Company shall file each month a Base Load Power Plant Performance Report as required in Section 2 below.

2. The Public Staff should review the base load unit operating performance.

3. If the nuclear capacity factors for the six months and the 12 months ending with October or April, as appropriate, are less than 60%, or upon Motion by the Commission, the Public Staff, or another party, the Commission will automatically review the performance of the system's base load generating plants during the next semiannual fuel adjustment hearing, December or June, as

appropriate. Both the Public Staff and the affected utility will be required to present to the Commission an explanation and comments concerning the causes of the low performance and concerning any remedial actions taken.

4. If the Commission finds that responsibility for some or all of the poor performance lies with the utility because of management practices deemed to be imprudent, the Commission may disallow some or all of the cost of below minimum performance, as appropriate. In determining the amount of this adjustment, the Commission considers the following as relevant factors: the time of the outage, its duration, the magnitude of the cost, the minimum capacity level at which nuclear generation "breaks even" with coal-fired generation on an economic basis, prior performance of the unit, the vintage of the units, and the general diligence and responsibility of management. The Commission will also consider other relevant factors suggested by the parties.

II. REPORT REQUIREMENTS FOR BASE LOAD POWER PLANT PERFORMANCE REPORT

Report the following separately for fossil and nuclear generation.

1. List each outage during the monthly period and include

(a) Duration of each outage
(b) Cause of each outage
(c) Explanation for occurrence of cause, if known
(d) Remedial action to prevent recurrence of outage, if any

Note: List scheduled outages before forced outages.

2. Provide the following information for the monthly period and provide a summary for the three-month, six-month, and the 12-month periods ending with the current month:

(a) Maximum dependable capacity (MDC) in Megawatts (Mw)
(b) Hours in period
(c) Megawatt-hours (Mwh) generated in the period
(d) Mwh not generated due to scheduled outages
(e) Mwh not generated due to forced outages
(f) Mwh not generated due to economic dispatch
(g) Total Mwh possible in period ((a) x (b))

Note: Provide (a) through (g) in the units required and provide (c) through (f) as a percent of (g).

3. The base load plants to be included in the report are the following: CP&L-Roxboro, Robinson #2, Brunswick; Duke-Belews Creek, Oconee; Vepco-Mt. Storm, Surry.

APPENDIX B
PROPOSED SEMIANNUAL FUEL COST REVIEW PLAN

The Semiannual Fuel Cost Review will take place in the same manner as that which now occurs on a monthly basis, except that

(1) The base test period will consist of the six months ending three months prior to the beginning of the effective billing period, and

(2) The effective billing period will be the two calendar quarters following the Hearing.

Note: Underlining shows changes from the present three-month test period used to calculate the charge for a calendar month.

The following will be the hearing schedules, base test periods, and billing periods for the fuel adjustment charge (FAC):

6-Month Base Test Period	Hearing Month	FAC Billing Period
May-October	December	January-June
November-April	June	July-December

The formulas which will be used to calculate the fuel adjustment charges are attached as Attachment 1 (CP&L), Attachment 2 (Duke), and Attachment 3 (Vepco).

Once instituted, the Semiannual Fuel Cost Review will remain in effect until further Order of the Commission, except that, in any month in which the FAC that would result from use of a three-month base test period differs from the FAC which would be effective under the normal Semiannual Fuel Cost Review Plan by more than 0.100¢/Kwh (1.00 mil/Kwh), the Commission will take the following actions:

(1) If the three-month based FAC exceeds the six-month based FAC by more than 1.00 mil/Kwh, consider allowing use of the three-month test period to set the FAC for the following month, or

(2) If the three-month based FAC is more than 1.00 mil/Kwh less than the six-month based FAC, require the use of the three-month test period to set the FAC for the following month.

During the month in which the above two exceptions are no longer applicable, the FAC will revert back to the charge which would otherwise have been in effect.

ATTACHMENT 1
CAROLINA POWER AND LIGHT COMPANY
PROPOSED FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.00680 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities. The cost of nuclear fuel shall be that as shown in Account 518, excluding estimated costs and salvage value associated with reprocessing and disposal of the nuclear fuel and by-products and rental payments on leased nuclear fuel and except that, if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term Power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as Purchased or Interchange power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.00680 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

ATTACHMENT 2
DUKE POWER COMPANY
PROPOSED FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.007923 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518 excluding rental payments on leased nuclear fuel (interest) and except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term Power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as Purchased

or Interchange Power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.007923 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

ATTACHMENT 3
VIRGINIA ELECTRIC AND POWER COMPANY
PROPOSED FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.01290 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment factor in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term Power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs

such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as Purchased or Interchange Power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.01290 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

APPENDIX C

PART I. The Following Text is to Be Added to the Notice of the July Hearing to Set the August Fuel Adjustment Charge:

On May 18, 1978, the Commission entered an Order addressing several matters concerning the procedures followed in approving changes in the cost of fuel to utilities used in the generation of electricity. The Commission ordered that its proposals to change the fuel adjustment charge procedure should be consolidated for hearing at the same time and place as the July hearing to set the August Fuel Adjustment Charge.

The present method of changing the fuel adjustment charges has created much confusion and misunderstanding. The Commission has proposed to institute a new procedure in which, under normal circumstances, the fuel adjustment charge would be changed twice a year, instead of monthly as is now the case. The Commission also proposes that a limited range "dead band" would be instituted so that, as long as fuel costs do not change more than the limits of this band during a six-month period, interim changes in the fuel adjustment charge would not be made.

The Commission proposes that the limits of the dead band should be plus or minus 0.1¢/Kwh, or plus or minus one dollar per thousand kilowatt-hours billed. If fuel costs change rapidly enough within a six-month period to go outside the "dead band," the Commission proposes to allow the fuel charge to be adjusted on the same basis that is now used.

The Commission also proposes to update the company's approved tariffs at six-month intervals in order to eliminate or, at least to minimize, the size of monthly fuel clause riders.

In its Order of May 18, 1978, the Commission required that the Company file its testimony on or before June 30, 1978, and that the Public Staff and Intervenors file their testimony on or before July 7, 1978.

PART II. The Above Text Shall Also Be Added to the Notice of the June Hearing to Set the July Fuel Adjustment Charge with the Addition of the Following Paragraph to the End of the Above Text:

The only matter to be considered in the June Hearing set in this Order is that of setting the July fuel adjustment charge. The matter of the proposed changes in the fuel adjustment charge procedure is shown here in order to give as much notice as possible but will be heard in the July Fuel Adjustment Charge Hearing to be set at a later date.

DOCKET NO. E-2, SUB 316
DOCKET NO. E-7, SUB 231
DOCKET NO. E-22, SUB 216

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Carolina Power & Light Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	) ORDER REVISING) PLANT PERFORMANCE) REVIEW PLAN AND) ESTABLISHING RULE) R8-46, AND ORDER
Application by Duke Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	) INITIATING CHANGES IN) PROCEDURE FOR FUEL) COST RATE ADJUSTMENTS) PURSUANT TO) G.S. 62-134(e) AND
Application by Virginia Electric and Power Company for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-134(e)	) REVISING RULE R1-36)))

PHASE II

PLACE: Commission Hearing Room, Raleigh, North Carolina

DATES: November 21, 22, and 28, 1977; March 9, 1978; and July 20, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Sarah Lindsay Tate, Leigh H. Hammond, John W. Winters, Robert Fischbach, and Edward B. Hipp

DOCKET NO. E-2, SUB 316

APPEARANCES:

For the Applicant:

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

John T. Bode, Bode & Bode, P. A., P. O. Box 391, Raleigh, North Carolina 27602

Joseph C. Swidler and Edward Berlin, Leva, Hawes, Symington, Martin & Oppenheimer, Attorneys at Law, 815 Connecticut Avenue, N.W., Suite 1101, Washington, D. C. 20006

For the Using and Consuming Public:

Jerry B. Fruitt, Chief Counsel, and Robert P. Page, Public Staff - Legal Division, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Frank Crawley, Jesse C. Brake, and Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

DOCKET NO. E-7, SUB 231

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 Using and Consuming Public:

Theodore C. Brown, Jr., Public Staff - Legal Division, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Frank Crawley, Jesse C. Brake, and Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

DOCKET NO. E-22, SUB 216

APPEARANCES:

For the Applicant:

Guy T. Tripp III and Edgar Roach, Jr., Hunton & Williams, Attorneys at Law, P.O. Box 1535, Richmond, Virginia 23212

For the Using and Consuming Public:

Theodore C. Brown, Jr., and Dwight W. Allen, Public Staff - Legal Division, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

Frank Crawley and Richard L. Griffin, North Carolina Attorney General's Office, P. O. Box 629, Raleigh, North Carolina 27602

BY THE COMMISSION: This matter is before the Commission as a result of a proposal filed by the Public Staff during the October 1977 monthly fuel adjustment hearings for Carolina Power & Light Company, Duke Power Company, and Virginia Electric and Power Company (the Companies). The Companies presently apply for monthly adjustments in their respective fuel charges pursuant to North Carolina G.S. 62-134(e) and Commission Rule R8-45, both of which were ratified and adopted, respectively, in 1975. In its prefiled testimony, the Public Staff recommended a modification in the method used to determine monthly adjustments to fuel charges. In essence, the modification would introduce the concept of generating plant performance criteria and evaluation into the procedure of arriving at an approved fuel clause rider. Upon motion of the parties, the Public Staff's recommended modification was separated from the regular monthly hearing and was set as Phase II in this docket for separate and consolidated hearings.

Hearings, in the format of a generic examination of the issues, were held on November 21, 22, and 28, 1977, with oral arguments on March 9, 1978. The Public Staff presented one witness, Andrew W. Williams, Director of the Electric Division of the Public Staff. Duke Power Company (Duke) presented B. B. Parker, Duke President and Chief Operating Officer; Austin C. Thies, Duke Senior Vice President, Production and Transmission; and W. R. Stimart, Duke Controller. Carolina Power & Light Company (CP&L) presented Shearon Harris, Chairman of the CP&L Board; Thomas H. Hughes, Senior Consultant of H. Zinder & Associates, Inc.; Edward G. Lilly, Jr., CP&L Senior Vice President and Chief Financial Officer; Lynn W. Eury, CP&L Manager of System Operations and Maintenance; and James M. Davis, Jr., CP&L Manager of Rates and Service Practices. Virginia Electric and Power Company (Vepco) presented William W. Berry, Vepco

Senior Vice President, Commercial Operations; and Gary R. Keesecker, Vepco Manager - Power Supply.

After consideration of these matters, The Commission, by Order of May 18, 1978, instituted a Base Load Power Plant Performance Review Plan effective June 1, 1978, and noticed for review a semiannual fuel cost review system for incorporation into Rules R1-36 and R8-45. Hearing on the proposed semiannual fuel cost review system was held on July 20, 1978, coincident with the July fuel adjustment charge hearing. At that time, further testimony was received from Mr. Williams and Mr. Stimart; testimony was received from T.W. Puckett, Vepco Director of Rate Applications; and memoranda were received from CP&L, Duke, and Vepco.

PART I - PLANT PERFORMANCE REVIEW

Virginia Electric and Power Company presented evidence to indicate that there is at least one reason for reduced generation which is not covered in the Commission's Base Load Power Plant Performance Review Plan. This is the reduced generation which results when a generating plant is being brought up to full load from a cold start or greatly reduced generation level at which time the physical limitations on the system require it to be brought up to full heat slowly. Vepco also pointed out that North Anna 1 was not included in the original version of the Plan. North Anna officially went into commercial operation after the Commission's initial Order instituting the Plan and is now being used as a base load unit.

FINDINGS OF FACT

1. The Base Load Power Plant Performance Review Plan adopted by the Commission on May 18, 1978, does not properly include in its reporting format a place for reporting reduced generation due to start-up requirements and similar required reductions in load.

2. The Plan did not require reporting of North Anna operations.

CONCLUSIONS

It is appropriate to indicate in the reporting format an area in which reductions in generation resulting from start-up and similar requirements may be properly reported. North Anna should be included in the reporting requirements as should base load units which subsequently reach commercial operation status. The Base Load Power Plant Performance Review Plan should be formalized into a new Rule R8-46.

PART II - CHANGES OF PROCEDURES

In its Order of May 18, 1978, the Commission, on its own motion and in conjunction with these Phase II proceedings, proposed that Rule R1-36 be modified. The Commission's proposal was noticed to the public along with the notices for the June 1978 fuel adjustment charge hearing and the July 1978 hearing. The testimonies and memoranda presented in the July 20, 1978, hearing included evidence of the different amounts of fuel costs which would have been collected under the proposed plan and included statements in support of the proposed plan. Duke supported a modification of the plan in which the additional fossil fuel costs resulting from additional fossil generation required during refueling of nuclear generating units would be amortized over the nuclear fuel cycle. The Public Staff supported this modification. However, Duke's proposal tied this amortization to a moving base rather than the semiannual calendar base originally proposed. This use of a moving base was opposed by the Public Staff.

The Commission, in its May 18, 1978, Order, specifically requested Memoranda of Law concerning the authority of the Commission to implement its proposed semiannual fuel cost review plan. The Memoranda filed by the parties were in agreement that the proposed plan did not violate the rights of any party.

FINDINGS OF FACT

1. Barring adverse effects, either to consumers or to the Companies, electric rates charged to consumers should be as simple, understandable, and practical as possible.

2. The Commission has received numerous complaints concerning the present method of monthly changes in the fuel adjustment charge. This method has created much confusion and misunderstanding.

3. One means of reducing the confusion and misunderstanding is to change the procedure to allow for changes in the fuel adjustment charge only once each six months (barring any major fuel cost changes). Semiannual hearings can be scheduled to review the level of fuel charges, to revise the basic rate structures if changes have occurred, and to review in detail the procurement practices of the utilities and the efficiency and performance of the generating units, consistent with the Commission's Base Load Power Plant Performance Review Plan. The first semiannual hearing can be scheduled for December 1978, with the present monthly hearings routinely scheduled through that date.

4. The Semiannual Fuel Cost Review Plan preserves intact the rights of all parties under G.S. 62-134(e). Any party has the right to file for a change in rates based on fuel costs without regard to any preset hearing schedule if at any time that party believes the "dead band" is not

operating fairly under the general provisions of G.S. 62-134(e).

5. If the Plan had been in effect during the last 12 months, no party would have been unduly affected.

CONCLUSIONS

With respect to the existing monthly fuel adjustment hearings and the subsequent changes in power rates resulting from these hearings, the Commission believes that the frequency of such changes in rates should be minimized for the convenience of the consumer in anticipating the level of his power bill. Also, it has been the experience of the Commission that the fuel adjustment charge component shown on the customer's bill has been widely misunderstood. Many consumers interpret the fuel adjustment charge to be the total fuel component cost that the utility incurs in generating electricity. Slight changes in total costs of fuel can result in major changes in the incremental fuel adjustment charges on bills, particularly when nuclear plants are being refueled. In such event many customers then, understandably, inquire as to how fuel costs can go up over short periods of time at such a tremendous percentage rate (these percentages can easily be in the hundreds). As a result of such developments, much needless distrust and disharmony develop between the utility and its customers. Hence, the Commission concludes that consolidation of these hearings into semiannual hearings in order to reduce the frequency of changes is desirable.

The Commission recognizes, however, that G.S. 62-134(e) provides protection from changes in fuel cost to both the consumers and the Companies and that either the Companies or representatives of consumers (such as the Public Staff and the Attorney General) may file applications at any time to effect a change in the fuel cost adjustment rider. If, however, these filings were made too frequently and in instances where fuel costs have changed only slightly, public misunderstanding would once again result. Thus, the Commission concludes that a narrow bracket or range of slight fluctuations in fuel costs, denominated as a "dead band," should be established for fuel adjustments, within which no action should be taken to modify a current fuel adjustment rider. Based on its own review of its files and past monthly fuel adjustments for the Companies and the evidence presented in these hearings, the Commission concludes that a "dead band" can be appropriately established.

It is anticipated that the positive and negative fluctuations within this band will largely cancel out over time. However, because of the extremely fluid cost situation resulting from the mine workers' strike, the Commission proposes that the present monthly hearing schedule, using three-month averages as test periods for determining a subsequent month's fuel adjustment charges,

should be continued until December 1978. At that time, implementation of the six-month hearing schedule, using a six-month test period, will be instituted. For the initial hearing, both a six-month and a three-month base test period for fuel costs will be considered in order to ensure that the effects of the miners' wage settlements are reflected in the subsequent fuel clause collection period.

After this procedure is instituted, the Commission will retain the right to allow adjustments on a monthly basis if radically changing circumstances so require. The Commission will require that the monthly fuel costs as now determined (which are based on a test period consisting of the running average of cost data for the most recent three months for which data are available) continue to be submitted each month to the Commission.

The Commission has examined the fluctuations of the fuel adjustment charge over the last three years and the comments of all parties on its proposal and concludes that, when a new six-month schedule is begun, monthly adjustments between regularly scheduled semiannual adjustments should not be allowed unless unexpected rapid changes in fuel costs occur and the fuel adjustment charge computed with a three-month base differs from the fuel adjustment charge in effect by more than 0.100¢/Kwh (1.00 mil/Kwh).

If the fuel adjustment charge computed on a three-month base is more than 1.00 mil/Kwh below the effective charge, the Commission concludes that the change would be required. It is anticipated that hearings would not be necessary on such rate decreases.

The Commission further concludes that, at these six-month hearings, the fuel cost riders should be zeroed out or, in other words, incorporated in the basic tariffs.

If the change in fuel costs for any month, computed as stated above, does not exceed the 1.00 mil/Kwh limit, then the Commission would expect neither the utility nor any other party to file for a change in the fuel cost component in the electric rates. Variations outside the band are expected to be handled as described above. The Commission reiterates its finding that any party would have the right to file for a change in the fuel cost component of the rates without regard to any preset hearing schedule if at any time the utility or any party believes that the band is not operating fairly under the general provisions of G.S. 62-134(e).

The Commission concludes that the initial hearing under the six-month schedule should occur in December 1978. Simply stated, the Commission will hereby modify current procedures so that: (1) the Commission would normally use a six-month base period rather than three, (2) the Commission would schedule hearings every six months, rather than monthly, with possible interim hearings if emergencies

arise, and (3) the Commission would update the basic rates each six months to incorporate changed fuel costs rather than updating these rates only in general rate cases and using the fuel clause rider. This should prevent large positive or negative fuel adjustment riders which tend to be both confusing and unsatisfactory to consumers in terms of being able to plan on the probable level of electricity costs.

IT IS, THEREFORE, ORDERED:

PART I

1. That the Base Load Power Plant Performance Review Plan instituted effective June 1, 1978, shall be revised and incorporated into a new Rule R8-46 in accordance with Appendix A attached hereto, effective August 1, 1978.

PART II

1. That Rule R1-36 shall be revised to include the effects of the new semiannual plan by adding a new paragraph (c) in accordance with Appendix B attached hereto. This revision shall become effective with the December 1978 hearings to set the January 1979 fuel adjustment charges.

2. That the Fuel Cost Formulas shown in Attachments 1, 2, and 3 shall be used to implement the Semiannual Fuel Cost Review Plan effective with the December 1978 hearings to set the January 1979 fuel adjustment charges.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of August, 1978.

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

APPENDIX A

Rule R8-46. Base Load Power Plant Performance Review Plan. - (a) Every electrical public utility which uses fossil or nuclear fuel, or both, in the generation of electrical power shall, on or before the 25th day of each month, file a Base Load Power Plant Performance Report as required in paragraph (e) below.

(b) The Public Staff should review the base load unit operating performance.

(c) If the nuclear capacity factors for the six months and the 12 months ending with October or April, as appropriate, are less than 60%, or upon Motion by the Commission, the Public Staff, or another party, the Commission will review the performance of the system's base load generating plants during the next semiannual fuel adjustment hearing, December or June, as appropriate. Both

the Public Staff and the affected utility will be required to present to the Commission an explanation and comments concerning the causes of the low performance and concerning any remedial actions taken.

(d) If the Commission finds that responsibility for some or all of the poor performance lies with the utility because of management practices deemed to be imprudent, the Commission may disallow some or all of the cost of below minimum performance, as appropriate. In determining the amount of this adjustment, the Commission considers the following as relevant factors: the time of the outage, its duration, the magnitude of the cost, the minimum capacity level at which nuclear generation "breaks even" with coal-fired generation on an economic basis, prior performance of the unit, the vintage of the units, and the general diligence and responsibility of management. The Commission will also consider other relevant factors suggested by the parties.

(e) Requirements for Base Load Power Plant Performance Report. - The following shall be separately reported for fossil generation and nuclear generation.

(1) List each outage during the monthly period and include:

(i) Duration of each outage,
(ii) Cause of each outage,
(iii) Explanation for occurrence of cause, if known, and
(iv) Remedial action to prevent recurrence of outage, if any.

Note: List scheduled outages before forced outages.

(2) Provide the following information for the monthly period and provide a summary for the three-month, six-month, and the 12-month periods ending with the current month:

(i) Maximum dependable capacity (MDC) in Megawatts (Mw),
(ii) Hours in period,
(iii) Megawatt-hours (Mwh) generated in the period,
(iv) Mwh not generated due to scheduled outages,
(v) Mwh not generated due to forced outages,
(vi) Mwh not generated due to economic dispatch or other causes, and
(vii) Total Mwh possible in period ((i) x (ii)).

Note: Provide (i) through (vii) in the units required and provide (iii) through (vi) as a percent of (vii).

(3) The base load plants to be included in the report are the following: CP&L - Roxboro, Robinson 2, Brunswick; Duke

Belews Creek, Oconee; Vepco - Mt. Storm, Surry, North Anna. Subsequent base loaded plants shall be reported beginning with their first full calendar month of commercial operation.

APPENDIX B

Rule R1-36. Applications for change in rates based on cost of Fuel

(c) Semiannual Fuel Cost Review Plan:

(1) Changes of rates based solely on the cost of fuel pursuant to G.S. 62-134(e) shall normally occur at six-month intervals, at which time the changes in fuel costs shall be rolled into the basic rates to be charged for the succeeding six-month period and the Fuel Adjustment Charges (FAC) shall be zeroed. The following shall be the normal hearing schedules, base test periods and billing periods.

6-Month Base Test Period	Hearing Month	Billing Period
May - October	December	January - June
November - April	June	July - December

(2) In any month in which the FAC that would result from use of a three-month base test period differs from the FAC which would be effective under the normal Semiannual Fuel Cost Review Plan outlined in (c)(1) above by more than 0.100¢/Kwh (1.00 mil/Kwh), the Commission will take the following actions:

(i) If the three-month based FAC exceeds the six-month based FAC by more than 1.00 mil/Kwh, consider allowing use of the three-month test period to set the FAC for the following month, or

(ii) If the three-month based FAC is more than 1.00 mil/Kwh less than the six-month based FAC, require the use of the three-month test period to set the FAC for the following month.

(3) During the month in which the two exceptions in (c)(2) above are no longer applicable, the FAC will revert back to the charge which would otherwise have been in effect.

(4) Nothing in this rule shall be construed to limit the right of any party to file at any time under the provisions of G.S. 62-134(e). However, it is expected that filings will be limited to the scheduled semiannual hearings unless the exceptions (c)(2) or matters of extreme emergency arise.

ATTACHMENT 1
CAROLINA POWER AND LIGHT COMPANY
FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.00680 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities. The cost of nuclear fuel shall be that as shown in Account 518, excluding estimated costs and salvage value associated with reprocessing and disposal of the nuclear fuel and by-products and rental payments on leased nuclear fuel and except that, if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term Power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives, and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as Purchased or Interchange Power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and

payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.00680 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

ATTACHMENT 2
DUKE POWER COMPANY
FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.007923 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518 excluding rental payments on leased nuclear fuel (interest) and except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term Power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as Purchased or Interchange Power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.007923 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

ATTACHMENT 3
VIRGINIA ELECTRIC AND POWER COMPANY
FUEL COST FORMULA

$$F = \frac{E}{S} - \$0.01290 \quad (T) \quad (100)$$

Where:

F = Fuel adjustment factor in cents per kilowatt-hour
E = Fuel costs experienced during the six months ending with the third month preceding the billing period, as follows:

(A) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.

Plus

(B) Purchased Power fuel costs such as those incurred in Unit Power and Limited Term power purchases where the fossil and nuclear fuel costs associated with energy purchased are identifiable and are identified in the billing statement.

Plus

(C) Interchange Power fuel costs such as Short Term, Economy and Other where the energy is purchased on economic dispatch basis; costs such as fuel handling, fuel additives and operating and maintenance may be included.

Energy receipts that do not involve money payments such as Diversity Energy and payback of Storage Energy are not defined as purchased or Interchange power relative to the Fuel Clause.

Minus

(D) The cost of fossil and nuclear fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

Energy deliveries that do not involve billing transactions such as Diversity Energy and payback of storage are not defined as sales relative to the Fuel Clause.

S = total kilowatt-hour sales during the six months ending with the third month preceding the billing period.
$0.01290 = Base cost of fuel per Kwh sold.
T = adjustment for state taxes measured by gross receipts: 1.06383

DOCKET NO. E-7, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Power Company for an	) ORDER GRANTING
Adjustment of Its Rates and Charges in	) PARTIAL INCREASE
Its Service Area Within North Carolina	) IN RATES

HEARD IN: County Commissioners' Room, 6th Floor, Durham County Office Building, 220 East Main Street, Durham, North Carolina, on June 19, 1978

District Courtroom, Basement Floor, McDowell County Courthouse, Marion, North Carolina, on June 20, 1978

Main Courtroom, Henderson County Courthouse, 100 Block of Main Street, Hendersonville, North Carolina, on June 20, 1978

Board Room, 4th Floor, Education Center, 701 East Second Street, Charlotte, North Carolina, on June 21, 1978

Courtroom 3-A, 3rd Floor, Guilford County Courthouse, No. 2 Governmental Plaza, Greensboro, North Carolina, on June 22, 1978

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on July 5-7, 11-14, and 18-19, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Leigh H. Hammond, Sarah Lindsay Tate, Robert Pischbach, John W. Winters, and Edward B. Hipp

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., Vice President and General Counsel; George W. Ferguson, Jr., Deputy General Counsel; and W. Edward Poe, Jr., Duke Power Company, P.O. Box 2178, Charlotte, North Carolina 28242

Clarence W. Walker, Kennedy, Covington, Lobdell & Hickman, Attorneys at Law, 3300 NCNB Plaza, Charlotte, North Carolina 28280

For the Intervenors:

W.I. Thornton, Jr., City Attorney, City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701
For: City of Durham

Thomas R. Eller, Jr., Attorney at Law, P.O. Box 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, P.O. Box 527, Raleigh, North Carolina 27602
For: North Carolina Oil Jobbers Association and Berico Fuels, Inc.

Robert P. Byrd, Byrd, Byrd, Ervin & Blanton, P.A., Attorneys at Law, Drawer 1269, Morganton, North Carolina 28655
For: Great Lakes Carbon, Inc.

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Kimberly-Clark Corporation, Air Products & Chemicals, Inc., Union Carbide Corporation, Olin Corporation, American Cyanamid Company, BASF Wyandotte Corporation, Owens-Illinois, Inc., PPG Industries, Inc., and Weyerhaeuser Company

Amy L. Cox, Staff Attorney, Greensboro Legal Aid Foundation, 917 Southeastern Building, Greensboro, North Carolina 27401
For: Carolina Action-Greensboro

Dennis P. Myers, Associate Attorney General, and Frank Crawley, Associate Attorney General, Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Dwight W. Allen and Theodore C. Brown, Jr., Staff Attorneys-Public Staff, North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding is before the Commission upon the application of Duke Power Company (hereinafter called the Applicant, the Company, or Duke) filed on January 30, 1978, 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 $70,462,000 of additional annual revenues from the Company's North Carolina retail operations when applied to a test period consisting of the 12 months ended September 30, 1977. The Company requested that such increased rates be allowed to take effect on bills rendered on and after March 1, 1978.

The Commission, being of the opinion that the increases in rates and charges proposed by Duke were matters affecting the public interest, by Order issued on February 21, 1978, declared the application to be a general rate case pursuant to G.S. 62-137, suspended the proposed rate increases for a period of 270 days, set the matter for hearing before the Commission beginning on June 19, 1978, required Duke to give notice of such hearing by newspaper publications and by appropriate bill inserts, established the test period to be used in the proceeding, and required protests or interventions to be filed in accordance with the Commission Rules and Regulations.

Notice of Intervention in this docket was given by the Attorney General of North Carolina on behalf of the Using and Consuming Public on February 1, 1978. On February 8, 1978, the Public Staff, by and through its Executive Director, Hugh A. Wells, filed Notice of Intervention on behalf of the Using and Consuming Public. The Intervention of the Attorney General was recognized by the Commission orally on July 5, 1978. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

By Petition filed March 6, 1978, Great Lakes Carbon Corporation petitioned to intervene and protest and object to any increase in rates. On March 10, 1978, the Commission by Order allowed Great Lakes Carbon to intervene. On April 21, 1978, Petition for Leave to Intervene in this docket was filed by the North Carolina Textile Manufacturers Association, Inc.; the Commission allowed the Petition on April 26, 1978.

On April 27, 1978, the North Carolina Oil Jobbers Association and Berico Fuels, Inc., filed a Petition to Intervene, said Intervention being allowed by Order of the Commission on May 5, 1978. Also, at the time of filing the Petition to Intervene, the North Carolina Oil Jobbers Association and Berico Fuels, Inc., moved by written Motion that the Commission issue an Order requiring Duke to file with the Commission and introduce into evidence as a part of the case fully distributed cost of service studies for the test year. Duke answered the Motion on May 12, 1978, and, subsequently, the Commission ordered Duke on May 16, 1978, to file cost-of-service studies for the year 1976 based on winter system peak demand. Duke complied with the Order on June 1, 1978, filing 1976 fully distributed cost-of-service studies and proposed rates based on winter system peak.

The City of Durham filed a Petition for Leave to Intervene on May 9, 1978, and on May 12, 1978, an Order was issued allowing the Intervention. Carolina Action-Greensboro filed on June 13, 1978, a Petition to Intervene and on June 15, 1978, the Commission allowed the Intervention. A joint Petition to Intervene by Kimberly-Clark Corporation, Air Products and Chemicals, Inc., Union Carbide Corporation, American Cyanamid Company, BASF Wyandotte Corporation, Olin Corp., Owens-Illinois, Inc., and PPG Industries, Inc., was filed on June 21, 1978, and by Commission Order of June 27, 1978, the joint Petition was allowed. Subsequently, on July 5, 1978, a Petition to Intervene was filed by Weyerhaeuser Company, and the Intervention was recognized orally by the Commission on July 5, 1978.

Out-of-town hearings were conducted by the Commission for the purpose of receiving testimony from members of the Using and Consuming Public with regard to Duke's proposed rate increases. The first such hearing was held in Durham, North Carolina, at 7:30 p.m., on June 19, 1978; the second in Marion, North Carolina, on June 20, 1978, at 2:00 p.m.; the third in Hendersonville, North Carolina, on June 20, 1978, at 7:30 p.m.; the fourth on June 21, 1978, in Charlotte, North Carolina, at 2:00 p.m. and 7:30 p.m.; and the fifth hearing in Greensboro, North Carolina, on June 22, 1978, at 2:00 p.m. and 7:30 p.m. Approximately 240 witnesses appeared and testified at the out-of-town hearings; some of the witnesses testified in favor of Duke's proposed increases, while other witnesses testified against the Company's proposals.

The matter came on for hearing in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on July 5, 1978, at 10:00 a.m. Duke Power Company offered the testimony and exhibits of the following witnesses: Carl Horn, Jr., Chairman of the Board of Duke Power Company and its Chief Executive Officer; William S. Lee, President and Chief Operating Officer; William Grigg, Senior Vice President-Legal and Finance, all three of whom testified as to the Company's need for the proposed rate increases, its construction program, the efficiency of its operations, and

its financial condition and overall general corporate policy. Dr. Charles E. Olson, an economist with H. Zinder and Associates, Inc., Economic and Engineering Consultants, who testified to the fair rate of return required by Duke Power Company; W.R. Stimart, Controller of Duke, who testified to the results of the Company's accounting operations and the historical test year data; M.T. Hatley, Jr., Manager of the Rate Department, and Donald H. Denton, Vice President of Marketing, both of whom testified as a panel with respect to rates, rate design, the Company's new residential conservation rate schedule, and its Load Management Program; John B. Gillett, a partner with the engineering firm of Whitman, Requardt and Associates of Baltimore, Maryland, who testified as to his estimate of the replacement cost of the capital plant of the Company derived by trending the original cost of said plant.

The Public Staff offered the testimony and exhibits of the following witnesses: Carol L. Kimball, Public Utilities Complaint Analyst for the Consumer Services Division of the Public Staff, who testified with respect to the number and types of complaints received on Duke; J. Reed Bumgarner, Distribution Engineer with the Public Staff's Electric Division, who testified to cost-of-service and jurisdictional allocation studies and to probable future revenues and expenses applicable to electric plant in service at the end of the test period; Dr. John W. Wilson, President of J.W. Wilson and Associates, Inc., Washington, D.C., economist, who testified to rate of return and cost of capital; Dennis J. Nightingale, Utilities Engineer, Electric Division of the Public Staff, who testified to the reasonableness of Duke's production plant in service and proposed construction schedule; N. Edward Tucker, Jr., Utilities Engineer, Electric Division of the Public Staff, who testified to the allocation of the requested rate increases between the various rate classes and to the design of the rate schedules proposed by the Company; Andrew W. Williams, Director of the Electric Division of the Public Staff, who testified to Duke's fuel procurement activities, fuel inventory levels in the test year, fuel cost adjustment formula, and expenses related to disposal of spent nuclear fuel. M.D. Coleman, Director of the Accounting Division of the Public Staff, William E. Carter, Jr., Assistant Director of the Accounting Division of the Public Staff, and William W. Winters, Staff Accountant, Accounting Division of the Public Staff, all of whom appeared together as a panel and gave testimony as to the Public Staff's investigation and analyses of the Company's original cost net investment, revenues and expenses, rates of return under present and proposed rates, rate-making treatment for cost-free capital, proper level of allowance for working capital, and the appropriate rate-making treatment which should be accorded the unamortized Job Development Credits (JDC). The Public Staff also presented the testimony and exhibits of Joel C. New, Programs Administrator with the State Economic Opportunity Office, Department of Natural Resources and

Community Development, who testified to statistical data and current information on the State's low income citizens.

The Attorney General offered the testimony and exhibits of John Crosland, Jr., a builder and developer from Charlotte, North Carolina, with respect to Duke's proposed RC rate Schedule and to the costs in building new structures and in retrofitting old structures for conservation of energy. Intervenor North Carolina Textile Manufacturers Association, Inc., offered the testimony and exhibits of H. Randolph Currin, Jr., Vice-President, Financial Services, of Booth and Associates, Inc., with respect to a recommended rate of return and cost of capital for Duke Power Company. Intervenor Carolina Action of Greensboro offered the testimony and exhibits of Dr. James M. Watts, Assistant Professor of Economics, UNC at Greensboro, and Dr. John L. Neufeld, Assistant Professor of Economics, UNC at Greensboro, sitting as a panel, in respect to rate design equity and efficiency.

In rebuttal to the testimony on rate of return by Public Staff witness Wilson, Duke offered the testimony and exhibits of the following witnesses: Richard H. Jenrette, Chairman of the Board and Chief Executive Officer of Donaldson, Lufkin and Jenrette, Inc.; Norman Greenberg, Vice President - Research, Drexel Burnham Lambert, Inc.; William H. Reaves, President of W.H. Reaves and Company, Inc.; Mary A. Dunlea, Vice President, Research Department, Bache Halsey Stuart Shields, Inc.; and Dr. Edward W. Erickson, Professor of Economics, North Carolina State University. Duke also offered in rebuttal to the Public Staff's testimony on unamortized JDC the testimony of Duncan Lennon, Tax Counsel and Head of the Tax Department, Duke Power Company. Lastly, the Company offered the testimony and exhibits of Richard Walker, CPA and partner in Arthur Anderson and Company, and W.R. Stimart, Controller, Duke Power Company, in rebuttal to the Public Staff's testimony on the proper level of allowance for working capital and on operating expenses. Surrebuttal testimony and exhibits of M.D. Coleman, Director of Accounting, Public Staff, were offered in respect to comments and statements in the rebuttal testimony of W.R. Stimart and Richard Walker as it related to the proper allowance for working capital.

Oral arguments were scheduled by the Commission, with consent of all parties, and were held in the Commission Hearing Room, Dobbs Building, on July 26, 1978, at 9:00 a.m. Arguments were presented on behalf of the Company, the North Carolina Textile Manufacturers Association, Inc., the North Carolina Oil Jobbers Association, Kimberly-Clark Corporation, Air Products and Chemicals, Inc., Union Carbide Corporation, Olin Corporation, American Cyanamid Company, BASF Wyandotte Corporation, Owens-Illinois, Inc., PPG Industries, Inc., Weyerhaeuser Company, and the Public Staff for the Using and Consuming Public.

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. Duke Power Company is a duly licensed public utility, subject to the jurisdiction of this Commission, and holds a franchise to provide electric utility service in the State of North Carolina.

2. The test period for this proceeding is the 12-month period ending September 30, 1977. Duke is seeking an increase in its rates and charges to North Carolina retail customers of approximately $70,462,000 based on operations in the test period.

3. The reasonable original cost of Duke's North Carolina retail electric plant in service is $2,277,901,000. From this amount should be deducted the accumulated provision for depreciation and amortization of $642,624,000 and cost-free capital of $169,659,000 resulting in a reasonable original cost less depreciation and amortization and cost-free capital of $1,465,618,000.

4. The reasonable allowance for working capital is $147,845,000.

5. The reasonable replacement cost less depreciation of Duke's plant used and useful in providing electric service to the retail customers of North Carolina is $2,231,400,000.

6. The fair value of Duke's plant used and useful in providing electric service to the retail customers in North Carolina is $1,814,114,000. The fair value of Duke's plant is derived by giving a 7/10 weighting to the reasonable original cost less depreciation of $1,635,277,000 and by giving a 3/10 weighting to the reasonable replacement cost less depreciation of $2,231,400,000. The fair value derived from this method includes a reasonable fair value increment of $178,837,000.

7. The fair value of Duke's rate base used and useful in providing electric service to the retail customers of North Carolina is $1,792,300,000, which sum is composed of the fair value of Duke's plant of $1,814,114,000 plus a reasonable working capital allowance of $147,845,000 less cost-free capital of $169,659,000.

8. Duke's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $765,330,000 under the present rates and $805,657,000 under the approved rates.

9. The level of Duke's operating revenue deductions after accounting and pro forma adjustments, including taxes

and interest on customer deposits, is $622,910,000 which includes an amount of $73,649,000 for actual investment currently consumed through reasonable actual depreciation.

10. The unamortized JDC should earn the overall rate of return.

11. The capital structure which is proper for use in this proceeding is the following:

Item (a)	Percent (b)
Long-term debt	50.00%
Preferred stock	13.00%
Common equity	37.00%
Total	100.00%

12. 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) of $178,837,000 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	45.01%
Preferred stock	11.70%
Common equity	43.29%
Total	100.00%

13. The proper embedded cost rates for long-term debt and preferred stock are 7.87% and 7.79%, respectively.

14. The fair rate of return that Duke should have the opportunity to earn on the fair value of its North Carolina investment for retail operations is 8.98% which requires an increase in annual revenues from North Carolina retail customers of $40,327,000 based upon the historical test year (12 months ended September 30, 1977) level of operations as adjusted for known changes subsequent thereto. This rate of return on the fair value of Duke's property yields a fair rate of return on the fair value equity of Duke of approximately 10.46%. The full amount of additional revenues requested by Duke in this proceeding would produce rates of return in excess of those hereinabove approved and, hence, are unjust and unreasonable.

15. Duke's fuel procurement activities and practices are reasonable and are in accordance with similar practices previously reviewed by this Commission.

16. In light of the current Federal policies to disallow nuclear fuel reprocessing, it is reasonable to include in the total cost of nuclear fuel some estimated cost of

permanent disposal of the radioactive material resulting from nuclear plant operations.

17. Estimates for the cost of disposal of nuclear plant wastes (spent fuel) should be excluded from fuel cost adjustment proceedings pursuant to G.S. 62-134(e) and incorporated as a fixed component of the basic rate at a level of 0.0323¢/Kwh. Similarly, an additional amount of 0.0126¢/Kwh should be identified in the basic rates to reflect the 10-year amortization of disposal costs related to spent nuclear fuel.

18. 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 only the actual initial cost of nuclear fuel based on the adjusted test year cost levels which is appropriate for use in this proceeding, is 0.9284¢/Kwh.

19. The proper and appropriate approved fuel charge to be applied to the basic rates approved herein during the September 1978 billing month is a charge of 0.1068¢ per kilowatt-hour of sales.

20. The service provided by Duke is good, and the Company's response to customer complaints reveals that a thorough inquiry is made into each complaint.

21. Duke should be directed to file an annual cost of service study based on the annual winter coincident peak in addition to the annual study based on the summer peak. Duke should be directed to begin collecting data which will enable it to produce cost-of-service studies based on averages of multiple coincident peaks for submission and consideration in future rate case proceedings.

22. The design of appropriate rate schedules to effect the collection of revenues found to be fair and reasonable should include consideration of: (1) cost of service studies based on fully distributed book costs, (2) marginal costs of supplying additional units of power, (3) historical rate trends, (4) stability of cost recovery, and (5) understandability.

23. The rate schedules adopted herein will result in each classification of customers, i.e., residential, commercial, etc., earning approximately the same rate of return based on the fully distributed book cost of service studies.

24. Within the rate schedules, the marginal costs of providing additional units of power have been given consideration and, as a result, it was found that the discounts in the end usage blocks in the R, RW, RA, and RC should be reduced to produce a general flattening in the rate schedules.

25. The establishment of an SSI rate schedule limited to the elderly, the blind, or the handicapped who meet certain Federal poverty guidelines is justified on the basis (1) that their usage is inelastic and unresponsive to price changes, and (2) that establishment of such a rate schedule will allow the Commission to collect meaningful data in its comprehensive study of lifeline type rate schedules as mandated by the 1977 North Carolina General Assembly.

26. The RC (conservation rate) schedule adopted herein is found to be cost justified on the basis that the predictable savings to the Company, resulting from a reduction in peak power demand and occurring solely from a customer installing certain insulation material or meeting specified heat loss or gain performance standards, should be passed back to that customer in the form of a reduced rate. Further, the RC rate schedule is found to be in the interest of the State and Nation in conserving scarce energy supplies. Establishing the RC rate schedule and closing the RA rate schedule should also act to eliminate alleged promotional aspects of the RA rate schedule in that the qualifications for the RC rate schedule will not include a requirement of using electrical heat as the central heating source but will be limited only to specified thermal insulation or performance standards. Any new structure regardless of type of heating system installed will have the opportunity to qualify for the lower RC rate schedule.

27. The rate schedules adopted herein are found to be just and reasonable and to be fair and equitable as between classes and within each class.

28. In conjunction with establishment of the RC rate schedule, the Commission finds Duke's plan to assist its customers in obtaining bank loans for improving insulation of their homes in order that they might qualify for the RC rate, to be commendable.

The Commission also finds that the estimated 5% of Duke's customers who cannot obtain bank loans for the purpose of installing appropriate insulation material should not be excluded from the possibility of obtaining the lower RC rate; accordingly, it is found that Duke should be the lender of last resort to its customers this category.

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 Setting Hearing, the testimony of the public witnesses, the testimony and exhibits of the various Company witnesses, and the testimony and exhibits of the Public Staff. These findings are essentially informational, procedural, and jurisdictional in nature and were, for the most part, uncontested. They require no further discussion at this point.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The following chart summarizes the amount which each of the parties contends is the proper original cost of Duke's plant in service for North Carolina retail operations:

(000's Omitted)

Item (a)	Company (b)	Public Staff (c)
Electric plant in service	$2,277,901	$2,277,901
Less: Accumulated depreciation	641,373	642,624
Excess allowance for funds used during construction included in plant accounts	-	1,873
Net investment in electric plant in service	$1,636,528	$1,463,745

As shown in the above chart, both parties agree that the gross amount of the original cost of the North Carolina retail electric plant in service is $2,277,901,000.

Both parties agree that the provision for accumulated depreciation should be deducted from the original cost net investment; however, they differ by $1,251,000 on the amount to be deducted. Public Staff witness Winters testified that accumulated depreciation should be increased by the amount of the pro forma adjustment to normalize depreciation expense. Company witness Stimart contends that the additional depreciation expense represented by the pro forma adjustment has not been collected from the customers and, thus, the accumulation depreciation should not be increased.

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) the Commission has added an amount of $1,251,000 to depreciation expense to annualize depreciation applicable thereto. It is, therefore, entirely consistent and proper to make the corollary adjustment to accumulated depreciation. The Commission acknowledges that the pro forma adjustment to depreciation expense has not been collected from the Company's customers during the test year. However, when considering the test year, the Company has, in fact, not actually incurred such cost. Further, the Commission believes that the corollary adjustment to accumulated depreciation is necessary to achieve a proper and equitable matching of revenues and cost.

The Commission therefore concludes that the proper level of accumulated depreciation for use herein is $642,624,000.

Public Staff witness Winters proposed a rate base reduction based on his contention that the Company had capitalized allowance for funds used during construction (AFUDC) at excess levels during 1975 and 1976. In Duke's last general rate case (Docket No. E-7, Sub 173), the Commission made the following finding and conclusion:

> "Based on the testimony and exhibits presented in this docket, the Commission concludes that the AFUDC rate used by Duke in 1973 and 1974 did permit capitalization of the cost of funds used during construction; that the rate should not be increased without prior approval of the Commission; and, that the Commission will review the AFUDC rate which results from any formula prescribed by the FPC prior to the use of that formula by the Company to calculate the AFUDC rate."

The evidence in this case shows that Duke capitalized interest charges to construction during 1975 and 1976 consistent with the above and did not increase the AFUDC rate during those years. The Company continued to charge the AFUDC rate found by this Commission to be acceptable until the Commission issued its Order dated July 1, 1977, in Docket No. E-100, Sub 27. The evidence shows that since that Order was issued Duke has calculated its AFUDC rate precisely in accordance therewith. The Commission's Order in Docket No. E-100, Sub 27, was intended to operate prospectively. Public Staff witness Winters, however, in effect seeks a retroactive application of that Order which this Commission is unwilling to make. The Commission therefore concludes that the rates used by Duke to capitalize AFUDC in 1975 and 1976 were consistent with this Commission's Order in Docket No. E-7, Sub 173; and that since July 1, 1977, Duke has calculated its AFUDC rate to date in accordance with the Commission's Order in Docket No. E-100, Sub 27.

Prior period adjustments of the kind proposed by the Public Staff seriously reflect on the credibility of public utility accounting, create adverse reaction in the financial community, and affect the credibility of financial statements. This could increase the cost of capital. Accordingly, the Commission will not make the adjustment proposed by Public Staff witness Winters.

Based upon the findings as described above, the Commission concludes that the reasonable original cost less depreciation of Duke's property used and useful in providing retail electric service in North Carolina is $1,635,277,000.

The final item of difference between the parties with regard to the proper level of investment in utility plant in service arises from the question: What is the proper rate-making treatment to be accorded deferred income taxes - accelerated depreciation and deferred lease rental payments? The Company addressed this subject through the direct and rebuttal testimony of witness Stimart and through the

rebuttal testimony of witness Walker. Both witnesses recognize these items as cost-free capital. In his direct testimony Mr. Stimart states in effect that he has included this item in the capital structure at zero cost consistent with prior Commission Orders. The total Company cost-free capital was $277,279,000 at September 30, 1977, per revised Stimart Exhibit 1, page 1. His method results in $117,769,000 of this cost-free capital being assigned to the North Carolina retail operations. In his rebuttal testimony, Mr. Stimart justified the continuation of the practice of including cost-free capital in the capital structure at zero cost on the basis that it has in the past, and will in the future, lead to a lower cost of plant as a result of the lower rate used to capitalize AFUDC. This will also result in a lower AFUDC component being included in net income. He contends that the Public Staff's treatment of cost-free funds would result in replacing such revenues with noncash AFUDC and that this would be adversely received by the investment community. He estimated that the AFUDC component of net income would have been $5.5 million more if the Public Staff's treatment had been used in 1977.

Witness Walker stated that under ordinary circumstances either method would present results which are arithmetically equivalent. He, like Mr. Stimart, points out that the Public Staff's treatment of cost-free funds will lead to a slightly higher AFUDC rate. He does not consider this to be a desirable step because of the investors' attitude toward AFUDC. Further, witness Walker contends that increasing the AFUDC rate would lead to a higher recorded cost of new plant and a corresponding increase in rates to Duke's customers.

The Public Staff addressed this issue through the direct testimony of witness Coleman. In his direct testimony, Mr. Coleman testified that both he and the Company agree the funds generated from employing "normalization accounting" for the income tax effect of differences between book and tax depreciation and from normalizing the cost of combustion turbine leases over the life of the leases represent cost-free funds. According to Mr. Coleman, these funds have been provided by the customer because rates have been set to cover a higher level of income tax expense and lease rental payments than the Company has actually paid to the Federal Government and to the lessors. He points out that the Company will have use of the funds it is currently collecting through the rates from its customers to cover these costs until the time these costs are actually incurred and paid by the Company. Witness Coleman discusses at length Duke's argument that cost-free funds should be included in the capital structure at zero cost because one cannot specifically trace how the funds are expended. He stated that such a practice ignores the fact that the capital was supplied by the customers of the Company. His exhibits reveal that, on a total Company basis, employment of normalization accounting has resulted in the Company's customers having provided $277,279,000 of cost-free capital to the Company, and his testimony reveals that the Company's

treatment resulted in $51,892,000 of cost-free capital being assigned to the Company's nonutility operations (primarily construction work in progress). He testified that 33 Commissions reporting to NARUC follow the treatment he recommended in this case and that continuation of the practice of including cost-free funds in the capital structure at zero cost would result in today's customers having to pay an additional $8,490,000 in rates currently.

The North Carolina Textile Manufacturers Association (NCTMA) and other parties also contend that the tax deferrals should be deducted from the original cost evidence of rate base.

The NCTMA states in its "Request for Special Findings and Conclusions" substantially as follows:

"Duke's evidence that deducting the funds from the rate base rather than treating them as cost-free in the total Company capital structures reduces annual revenue requirements in this case by $8,633,000. The practical explanation for this result lies in the fact that construction work in progress is not includible in rate base evidence, but is included in total company capitalization; charging the present ratepayer for plant not yet in service is unlawful, but an allowance is made for costs associated with carrying this capital. This allowance is charged to other income rather than to present rates pending the time when the plant represented by those funds is operational, at which time this accumulated sum goes into the rate base and is serviced by the ratepayers who use the plant. It is therefore concluded that treating the tax deferral accounts as "cost-free" capital without deducting them from the rate base would effectively require the present ratepayers to pay approximately $8.6 million annually in rates to service plant which is not used and useful. This reason may be sufficient justification to deduct the cost-free funds from the original cost evidence of rate base in this proceeding. However, there are other less complicated reasons for deducting such funds from the original cost evidence of rate base.

Under North Carolina Supreme Court holdings in Utilities Commission v Morgan, supra, it is not proper for the utility "to include in rate base funds it has not provided but which it has been permitted to collect from its customers for the purpose of paying expenses at some future time..." These cost-free funds come directly within such proscription. Without doubt these funds were collected from ratepayers to pay future expenses. The tax deferrals represent the difference between what Duke's tax liability would have been under book (straight-line) plant depreciation rates and what its liability actually was under the liberalized plant depreciation rates permitted by the tax laws. While Duke contends these sums are merely postponed and not forgiven, there is no evidence

that there has been or is likely to be an end to the "postponement" so long as Duke continues to have net plant additions."

Moreover, the Commission observes that although the Company contends that funds cannot be specifically traced, it, in fact, does so when, instead of recording the deferred income taxes associated with interest capitalized as a deferred credit, the Company reduces construction work in progress thus directly assigning this cost-free capital to nonutility operations. As Public Staff witness Coleman points out in his opening remarks, since 1970 Duke has recorded, and thus directly assigned to construction, $122,809,000 of cost-free capital generated from this source.

The Commission believes that today's customer, under existing law and as a matter of equity, should not be required to pay the cost of constructing plant for tomorrow's customer. Therefore, for the foregoing reasons, the Commission concludes that cost-free capital should be deducted in calculating the net original cost of property included in its determination of the fair value rate base. The Commission further concludes that the amount of $169,659,000 recommended by the Public Staff and the NCTMA is proper and that Duke should eliminate on a prospective basis the cost-free component from the formula prescribed by this Commission for use in calculating the AFUDC rate.

Finally, the Commission concludes that the proper level of net electric plant in service for use herein is $1,465,618,000, which sum is calculated as follows:

(000's Omitted)

Item (a)	Amount (b)
Original cost of plant in service at 9/30/77	$2,277,901
Less: Accumulated depreciation	642,624
Cost-free capital	169,659
Net electric plant in service	$1,465,618

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Company witness Stimart and Public Staff witness Coleman presented direct testimony and exhibits showing what each contended to be the reasonable allowance for working capital. The North Carolina retail amount claimed by each witness is shown in the following chart:

(000's Omitted)

Item (a)	Company Witness Stimart Revised (b)	Public Staff Witness Coleman (c)
Materials and supplies	$ 97,065	$ 87,426
Working capital investment	50,780	50,751
Deduct: Overstatement of working capital per books	---=---	(67,662)
Total working capital requirements	$147,845	$ 70,515

As the above chart reveals, there is a $77,330,000 difference in the amount of working capital which each witness claimed should be added to the fair value rate base. In addition to the direct testimony of Company witness Stimart and the rebuttal testimony of Company witness Walker, witness Stimart presented rebuttal testimony and Public Staff witness Coleman presented surrebuttal testimony on the subject.

Company witnesses Stimart and Walker recommend that the formula method be used to measure the capital supplied by the debt and equity investors to meet the Company's working capital requirement. They contend this method is time tested, widely accepted in the regulatory system, accepted by the Federal Power Commission in Duke's last rate case, and accepted by this Commission in previous rate cases. On rebuttal, Company witness Stimart criticizes the balance sheet analysis performed by Public Staff witness Coleman and lists as items (a) through (j) what he considers defects in the balance sheet approach to measuring the allowance for working capital. He contends this approach results in a negative cash allowance for working capital which in his opinion is unrealistic. He bases this contention on the subtraction of the North Carolina retail overstatement of working capital from the $50,780,000 that he calls working capital investment.

Company witness Walker defined the term "working capital" as it relates to commercial enterprises and the utility industry. He suggests that the working capital determined for a commercial enterprise is used for a different purpose than working capital used in the utility industry. Witness Walker also discussed the value of lead-lag studies in measuring the working capital requirements of a company. Finally, he discussed six items which he contends are defects in the balance sheet analysis performed by Public Staff witness Coleman. Neither Company witness offered exhibits in support of his rebuttal testimony which would quantify the effect of the stated defects in working capital as derived from the balance sheet analysis. However, Mr. Stimart suggested that if the alleged defects were

eliminated, the amount of working capital derived from the balance sheet analysis would approximate the amount derived under the formula method. Mr. Walker expressed the opinion that both the formula method and the balance sheet method would tend to understate the amount required for working capital.

Public Staff witness Coleman begins his discussion of working capital by first defining working capital. He states that accounting literature defines it as current assets minus current liabilities. He agrees with the definition of working capital as stated by this Commission in its Order in the Southern Bell Telephone and Telegraph Company rate case, Docket No. P-55, Sub 768, and refers to language in that Order which states that working capital should be added to the rate base only to the extent the debt and equity investors have been required to provide capital for this purpose. He contends that the formula method as employed by the Company overstates the per books working capital provided by the debt and equity investors by $116,598,000 and that the North Carolina retail portion of that overstatement is $67,662,000.

Mr. Coleman contends the balance sheet is the basic financial statement which contains the information required to measure that portion of the Company's working capital requirements provided by the Company's debt and equity investors. He gives two reasons for this position. First, he states that the principle that total assets equal the sum of common equity, preferred stock, current liabilities, and deferred credits is fundamental to double entry accounting and the preparation of the balance sheet. Second, he contends the accounting process requires that records be maintained in such a manner as to permit a reliable measurement of the assets and the liabilities and equity supporting those assets. It was his opinion that financial statements prepared from an accounting system which generated unrealiable data would either be adjusted by a Certified Public Accountant or receive a qualified or disclaimer opinion based on the severity of the problem. He testified that to his knowledge Duke had never received a qualified or disclaimer opinion due to any significant understatement of current assets, liabilities, or shareholder equity. He responded in his direct testimony to the concerns with the balance sheet analysis expressed by the Commission in Duke's last general rate case, Docket No. E-7, Sub 173. On surrebuttal he responded to criticisms and defects of the balance sheet analysis as testified to by Company witnesses Stimart and Walker in their rebuttal testimony.

The Commission believes that for rate-making purposes working capital should be defined as the amount of capital the Company's debt and equity investors have been required to provide to enable the Company to maintain an inventory of materials and supplies and the cash necessary to pay the cost of providing electric service prior to the time

revenues for electric service are received from its customers and to meet compensating bank balances. Further, the Commission believes that a working capital allowance should be included as a component of the fair value rate base only to the extent that the debt and equity investors have been or will be required to provide capital to support the Company's investment in assets necessary for the day-to-day operations of the business.

After carefully considering the evidence presented by each witness, the Commission will, for purposes of this proceeding, employ the formula method in determining the allowance for working capital. 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 is "hard put" to determine the propriety or reasonableness of an allowance for working capital determined by use of a formula method or by use of a balance sheet analysis.

Therefore, the Commission believes that in all future filings of general rate increase requests Duke should be required to file as a part of NCUC Form E-1 (Rate Case Information Report) a properly prepared, complete, detailed lead-lag study.

Public Staff witness Williams proposed an adjustment to reduce Duke's coal inventory level from 90 days to 75 days. The record evidence is that in view of a possible rail strike this fall and other contingencies such as adverse weather conditions and wildcat strikes, Duke's management was committed to a 90-day coal inventory level. The only basis for Mr. Williams' adjustment to reduce the coal inventory level to 75 days is that the Public Staff "feels" on the average that it is more representative of the level Duke is likely to achieve.

Based on the evidence, the Commission is of the opinion that the level of materials and supplies as proposed by the Company is reasonable and it will not make the adjustment to reduce the coal inventory level from 90 days to 75 days.

Based upon the foregoing, the Commission therefore concludes that the working capital allowance of $147,845,000 as proposed by the Company is proper for use herein. Such sum is calculated as follows:

(000's Omitted)

Item (a)	Amount (b)
Materials and supplies	$ 97,065
Cash	45,672
Required bank balances	11,131
Less: Federal income tax accruals	2,700
Customer deposits	3,323
Total allowance for working capital	$147,845

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

John G. Gillett testified for the Company that the trended depreciated original cost of plant devoted to serving North Carolina retail electric customers as of September 30, 1977, was $2,231,400,000. Mr. Gillett's study was not a "replacement cost" study as such. However, G.S. 62-133(b)(1) provides:

"Replacement cost may be determined by trending such reasonable depreciated cost to current cost levels, or by any other reasonable method."

Neither the Public Staff nor the other parties of record offered testimony on the fair value of the Company's property used and useful in providing service to North Carolina retail electric customers. Nothing in the cross-examination of Mr. Gillett indicates that his method is unreasonable.

In view of the foregoing, the Commission concludes from the evidence of record that the reasonable replacement cost less depreciation for plant used and useful in serving North Carolina retail electric ratepayers is $2,231,400,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

No evidence was offered in this case regarding the weighting of original cost and replacement cost for purposes of determining fair value. However, in Duke's last general rate case (Docket No. E-7, Sub 173), the Commission determined the fair value of Duke's property by weighting original cost less depreciation at 7/10 and replacement cost less depreciation at 3/10.

The Commission therefore finds that the 7/10 weighting of original cost and the 3/10 weighting of replacement cost in Docket No. E-7, Sub 173, is appropriate for use herein.

The Commission therefore concludes that the fair value of Duke's plant used and useful in providing electric service to the retail customers of North Carolina is $1,814,114,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The fair value of Duke's rate base used and useful in providing service to its North Carolina retail customers is $1,792,300,000, which sum is composed of the fair value of Duke's plant of $1,814,114,000 (Finding of Fact No. 6) plus the reasonable allowance for working capital of $147,845,000 (Finding of Fact No. 4) less cost-free capital of $169,659,000 (Finding of Fact No. 3).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Company witness Stimart and Public Staff witness Winters proposed the following amounts for operating revenues:

(000's Omitted)

Item	Company Witness Stimart	Public Staff Witness Winters
Operating revenues	$758,373	$761,917

Company witness Stimart adjusted book revenues to normalize and annualize the revenues for the test year ended September 30, 1977. The Public Staff accepted these adjustments and proposed the following adjustments which account for the difference of $3,544,000 shown above:

(000's Omitted)

	Item	Amount
1.	Adjustment for customer growth	$ 1,541
2.	Adjustment for temperature variances	4,692
3.	Adjustment related to Peter White Coal Company purchases	(2,689)
4.	Total	$ 3,544

Public Staff witness Williams recommended one adjustment which was not included in witness Winters' Exhibit. This adjustment of $7,223,210 was made to increase revenues in order to normalize throwaway fuel expenses for purposes of "zeroing" the fuel clause. In subsequent findings of fact the Commission has concluded that this adjustment increasing revenues by $7,223,210 is proper.

In the Company's original filing, Duke adjusted both revenues and expenses to account for customer growth to the end of the test period. According to both Public Staff and Company witnesses, the Company adjusted revenue by the average revenue per kilowatt-hour, including fuel clause adjustments, while fuel expense was adjusted by using the average expense per Kwh of conventional generation, that is, excluding nuclear generation.

Public Staff witness Bumgarner stated in his direct testimony that this method did not properly match revenues and expenses. Witness Bumgarner in his Exhibit JRB-1 computed the additional revenue that would have been collected if the additional fuel expense attributable to conventional generation had been included in the fuel clause revenue adjustment. Mr. Bumgarner testified that this additional revenue would have amounted to $1,540,865.

Based on the above evidence and the entire record in this docket, the Commission concludes that the Company's adjustment to North Carolina Jurisdictional revenue for customer growth should be increased by $1,541,000.

Also, in the Company's original filing, Duke adjusted both revenues and expenses downward to account for temperature variances from the norm during the test period. As in the customer growth adjustment, Duke adjusted revenues by the average revenue per Kwh and expenses by the conventional generation fuel cost per Kwh. Public Staff witness Bumgarner testified in his direct testimony that the basic revenue decrease produced by the decreased sales should have been priced at the level of the rate block from which the Kwh's were dropped instead of at the average revenue per Kwh. Using this method, witness Bumgarner computed a drop in revenues due to temperature variances which was approximately $2,787,000 less than that shown by the Company. This revenue adjustment increasing revenue by $2,787,000 was basically uncontested and the Commission concludes that the adjustment is proper for use in this proceeding.

Witness Bumgarner also attempted to match the decrease in fuel adjustment revenue to the decrease in conventional generation fuel expense by using the same approach that he adopted to adjust revenues for customer growth. Using this method, witness Bumgarner developed a figure of $1,905,000 which he then added to test-period revenues. Company witness Stimart, in his rebuttal testimony, disputed this treatment of the revenue adjustment, stating that the amount should be subtracted from revenues instead of being added.

Based on the above evidence and on the record in this docket, the Commission concludes that the $1,905,000 adjustment derived by witness Bumgarner should be subtracted from revenues and, therefore, from the revenue increase of $2,787,000 to produce a net increase of $882,000 in Duke's North Carolina Jurisdictional revenue adjustment for temperature variance.

The last difference in the gross revenues presented by the witnesses relates to the adjustment made by the Public Staff reducing revenues by $2,689,022 to remove payments to Peter White Coal Company in excess of levels approved by the Commission in its Order of March 29, 1978.

The Commission believes that this adjustment is consistent with its prior findings in the fuel clause proceedings and therefore concludes that test-period revenues and expenses should be reduced by $2,689,000 and $2,528,000, respectively.

Based upon the foregoing, the Commission concludes that the appropriate level of operating revenues for use in this proceeding is $765,330,000, which sum is calculated as follows:

(000's Omitted)

Item (a)	Amount (b)
Operating revenues per Company	$758,373
Adjustment for customer growth	1,541
Adjustment for temperature variances	882
Adjustment related to Peter White Coal Company purchases	(2,689)
Adjustment to normalize throwaway fuel expenses	7,223
Total operating revenues	$765,330

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Stimart and Public Staff witness Winters offered testimony and exhibits presenting the level of operating revenue deductions which they believed should be used by the Commission for the purpose of fixing rates in this proceeding. The following tabular summary shows the amounts presented by each witness:

(000's Omitted)

Item (a)	Company Witness Stimart (b)	Public Staff Witness Winters (c)
Operation and maintenance expense	$ 390,935	$ 385,832
Depreciation	73,649	73,333
Other operating taxes	65,261	65,474
Income taxes - State and Federal	87,871	93,429
Amortization of investment tax credit	(1,524)	(1,524)
Interest on customer deposits	173	173
Total operating revenue deductions	$ 616,365	$ 616,717

The difference in operating revenue deductions as presented by the witnesses is $352,000.

The first difference stated above concerns operation and maintenance (O&M) expense. Company witness Stimart testified that the proper level of O&M expenses was $390,935,000, while Public Staff witness Winters testified that the proper level was $385,832,000 or a difference of $5,103,000. The $5,103,000 difference consists of the following adjustments made by the Public Staff witnesses:

(000's Omitted)

Item No.	Item (a)	Amount (b)
1.	Adjustment to fuel used in electric generation	$(2,528)
2.	Adjustment to eliminate the Company's adjustment for inflation	(1,373)
3.	Adjustment to eliminate the Company's provision for nuclear liability insurance	(630)
4.	Adjustment to eliminate insurance reserves	(572)
5.	Total	$(5,103)

The first adjustment listed above concerns the cost of fuel burned during the test year. Public Staff witness Williams reduced fuel expense related to coal purchased from Peter White Coal Company, a subsidiary of Duke Power Company. This adjustment of $2,528,000 as discussed under Evidence and Conclusions for Finding of Fact No. 8 has been adopted by the Commission for use herein.

The second item listed above concerns annualization of increases in the price of materials and supplies actually experienced by the Company during the test year. Company witness Stimart increased these expenses based on an inflation rate of 6%. Public Staff witness Winters eliminated this adjustment contending that an inflation annualization adjustment was inappropriate unless productivity gains were also annualized to an end-of-period level. Company witness Stimart contends that productivity gains would have occurred in labor rather than in materials and supplies.

The Commission having analyzed the evidence presented regarding inflation and productivity gains concludes that the adjustment increasing the cost of materials and supplies expense for the effect of inflation is a reasonable and proper adjustment. The Commission believes that even if gains in labor productivity are achieved, there is no evidence that these gains would offset the increase in materials costs.

The third adjustment listed above concerns the provision for a nuclear liability insurance reserve. Company witness Stimart included in test year expenses $1,000,000 on a total Company basis of which $630,000 is allocated to the North Carolina retail operations. This adjustment was made to create a $10,000,000 nuclear self insurance reserve over the next 10 years. Mr. Stimart contends that such a reserve is necessary to demonstrate to the Nuclear Regulatory Commission the Company's financial ability to meet the requirements of the Price-Anderson Act should the Company become liable for a nuclear incident anywhere in the United States.

Public Staff witness Winters eliminated this item of cost. He testified that the Company is doing nothing more than attempting to establish a contingency reserve which is not in accordance with generally accepted accounting principles. He testified that Financial Accounting Standards Board (FASB) Statement No. 5 establishes the criteria to be met in order to recognize an estimated loss contingency as a reduction of net income. He quoted the following conditions from FASB Statement No. 5:

"(a) Information available prior to issuance of the financial statements indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements. It is implicit in this condition that it must be probable that one or more future events will occur confirming the fact of the loss.

(b) The amount of loss can be reasonably estimated."

Company witness Stimart testified on rebuttal that the likelihood of such an incident is remote but that he believed it was prudent to establish a reserve since commercial insurance is not available. He further testified that the Addendum to the Accounting Principles Board Opinion No. 2 provides that the provision for nuclear liability insurance be recorded as a current cost if it is allowed for rate-making purposes.

The Commission is of the opinion that it is prudent to establish and maintain such a reserve since commercial insurance is not available.

The Commission therefore concludes that the recording of an estimated loss contingency to establish a reserve for nuclear liability insurance is a reasonable and proper item of cost for rate-making purposes.

The fourth adjustment proposed by witness Winters concerns the elimination of insurance reserves. Witness Winters proposed to eliminate a nuclear property insurance reserve and a reserve to cover the exposure of the deductible portion of property insurance. He proposed to eliminate the reserves by amortizing them to operations over a three-year

period. He testified that if the reserves were not amortized, the ratepayers would never get the benefits from the previous charges paid in by them through the rate structure. Also, Mr. Winters testified that in his opinion these contingent losses did not meet the previously discussed conditions of FASB Statement No. 5.

Company witness Stimart opposed this adjustment for basically the same reason as he opposed the adjustment to eliminate the provision for the nuclear liability reserve as discussed in the preceding paragraphs.

The Commission is of the opinion that it is prudent to maintain both reserves and that Mr. Winters' proposed adjustment to amortize the existing reserves finds no support in generally accepted accounting principles. The Commission therefore rejects Mr. Winters' adjustment.

One additional item relating to operation and maintenance expense should be discussed. Public Staff witness Williams testified that an adjustment to normalize throwaway fuel disposal cost should be included in the base rates, and his adjustment is discussed under Findings of Fact Nos. 16 and 17. The Commission, as discussed hereafter, has found that operation and maintenance expense should be increased by $6,790,000 to include this item of cost in the test year level of expense.

Based upon the foregoing and the entire record in this docket the Commission concludes that the proper level of operation and maintenance expense for use in this proceeding is $395,197,000, which sum is calculated as follows:

(000's Omitted)

Item (a)	Amount (b)
Operation and maintenance expense proposed by witness Stimart	$390,935
Staff adjustment to reduce fuel expense related to coal purchased from Peter White	(2,528)
Staff adjustment to normalize throwaway fuel disposal cost	6,790
Total	$395,197

The second difference shown on the summary concerns depreciation. The $316,000 difference results from Public Staff witness Winters' adjustment to remove the amortization of the Chapel Hill acquisition adjustment. Witness Winters testified that Duke purchased the electric facilities of the University of North Carolina at Chapel Hill in December 1976 at a price in excess of the original cost. In his opinion,

it was improper to require Duke's general body of ratepayers to pay increased rates simply because Duke purchased the Chapel Hill property in excess of its original cost.

Company witness Stimart testified on rebuttal that the sale of the Chapel Hill property was approved by this Commission in Docket No. E-7, Sub 209, and the sale was also approved by a special Utilities Study Commission established by the Governor of the State of North Carolina. Witness Stimart also stated that the amortization of the acquisition adjustment in the manner proposed by the Company is in accordance with that prescribed by the Commission in two recent cases: Docket No. E-2, Sub 235, and Docket No. P-55, Sub 768.

The Commission believes that the sale of the University's electric properties to Duke Power Company was in the best interest of the Company and the ratepayers of this State. In an arm's-length transaction such as this, the Commission is of the opinion that the Company and the ratepayers should share the cost of the acquisition adjustment. Accordingly, the Commission believes that the Company should not be allowed to earn a return on the unamortized balance of the acquisition adjustment, but that the amortization should be included as a proper operating expense.

The Commission therefore concludes that the amortization of the acquisition adjustment is a proper component of cost of service and that the just and reasonable level of depreciation and amortization expense for use herein is $73,649,000.

The third difference shown on the summary concerns other operating taxes. The difference of $213,000 represents the additional gross receipts tax calculated by witness Winters on revenue adjustments made by the Public Staff.

Since the Commission did not accept all of the Public Staff's revenue adjustments, the Commission has calculated the gross receipts taxes on the approved adjustments. Under Evidence and Conclusions for Finding of Fact No. 8, the Commission concluded that the appropriate level of operating revenues is $765,330,000, or $3,413,000 greater than the amount recommended by Public Staff witness Winters. Gross receipts taxes on the additional $3,413,000 is $204,000.

The Commission therefore concludes that the proper level of other operating taxes for purposes of this proceeding is $65,678,000, which sum is $204,000 greater than the level proposed by witness Winters.

The final difference shown on the summary concerns operating income taxes. This difference of $5,558,000 results from two adjustments made by witness Winters. Witness Winters adjusted State and Federal income taxes for the income tax effect of the Public Staff's adjustments to revenue and expense. He also made an adjustment for the

income tax effect of the difference between his interest expense allocation to the North Carolina retail operations and that of Company witness Stimart.

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 income tax expense of $89,737,000, which sum it concludes is proper for use herein:

(000's Omitted)

Item (a)	Commission Findings (b)	Public Staff Witness Winters Exhibit 1 (c)	Increase (Decrease) (d)
Operating revenues	$765,330	$761,917	$ 3,413
Operating revenue deductions:			
Operation and maintenance expense	395,197	385,832	9,365
Depreciation and amortization	73,649	73,333	316
Taxes other than income	65,678	65,474	204
Interest expense	63,663	62,915	748
Total	598,187	587,554	10,633
Income before income taxes	$167,143	$174,363	(7,220)
Composite State and statutory income tax rate	-	-	.5112
Decrease in State and Federal income taxes	-	-	(3,692)
State and Federal income taxes contained in Winters' Exhibit 1	-	-	93,429
Approved State and Federal income taxes under present rates	-	-	$89,737

Both the Company and Public Staff witnesses agree on the amounts of investment tax credit amortization and interest on customer deposits which should be included in the cost of service.

The Commission therefore concludes that the proper level of investment tax credit amortization and interest on customer deposits for use herein is $1,524,000 and $173,000, respectively.

Finally, based upon the foregoing and all of the evidence of record, the Commission concludes that the proper level of

operating revenue deductions for use herein is $622,910,000, which sum is calculated as follows:

(000's Omitted)

Item (a)	Amount (b)
Operation and maintenance expense	$395,197
Depreciation and amortization	73,649
Taxes other than income	65,678
State and Federal income taxes	89,737
Investment tax credit amortization	(1,524)
Interest on customer deposits	173
Total revenue deductions	$622,910

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding is found in the testimony and exhibits of Company witnesses Stimart and Lennon and Public Staff witnesses Carter and Winters.

The Company contends that funds arising from utilization of the JDC should receive the full equity return whereas the Public Staff contends that such funds should receive the overall rate of return.

Company witness Stimart testified that including JDC in the equity component of the capital structure is in accordance with Section 46(f) of the Internal Revenue Code, a recent IRS information letter on this subject to Chairman Montoya of the New Mexico Public Service Commission, recent decisions of the FPC (now the FERC), and the decision of this Commission in Carolina Power & Light Company's most recent general rate case (Docket No. E-2, Sub 297).

Public Staff witness Carter testified that JDC should receive the overall rate of return found fair by the Commission, and not the full equity return as proposed by Duke. Mr. Carter stated that the basis for his recommendation was found in Section 46 of the Internal Revenue Code and the Internal Revenue Service's Proposed Regulation 1.46-5.

Mr. Carter testified that IRS's Proposed Regulation 1.46-5(b)(3) contains the following language which indicates that the overall rate of return is all that is required for JDC:

"Rate base. For purposes of this section, the term 'rate base' means the base to which the taxpayer's rate of return for ratemaking purposes is applied (i.e., the monetary amount which is used as the devisor in calculating rate of return or the amount which is multiplied by the fair rate of return to determine the allowable return in the fixing of rate levels). In

determining whether or to what extent a credit allowed under Section 38 (determined without regard to Section 46(f)) reduces the rate base, reference shall be made to any accounting treatment of such credit that can affect the taxpayer's permitted profit on investment. Thus, for example, assigning a 'cost of capital' rate to the amount of such credit which is less than the permissible overall rate of return (determined without regard to the credit) would be treated as, in effect, a rate base adjustment. What is the overall rate of return depends upon the practice of the regulatory body. Thus, for example, an overall rate of return may be a rate determined on the basis of an average or weighted average of allowable rates of return on investments by common stockholders, preferred stockholders, and creditors."

Witness Carter testified that the IRS Proposed Regulation is the official interpretation of the Internal Revenue Code until such time as a final regulation is published and that Section 46(f) of the Internal Revenue Code pertains to the rate-making treatment to be accorded the JDC.

Company witness Lennon testified on rebuttal that Section 46(f)(2) does not clearly and unambiguously state what is meant by a "rate base reduction." He further testified that it is necessary and appropriate to refer to sources such as Senate and House Committee Reports to resolve the uncertainties. Company witness Lennon testified that both Senate and House Committee Reports state that a rate base reduction is any accounting treatment that can affect the Company's permitted profit on investment by treating the credit in any way other than as though it has been contributed by the Company's common shareholders.

The Commission has carefully analyzed the direct testimony, exhibits, and cross-examination of each of these witnesses and other evidence of record.

The Commission acknowledges that the language contained in the IRS's Proposed Regulation is in conflict with certain language contained in the House and Senate Committee Reports. However, Proposed Regulation 1.46-5 is the only published guideline available to both the general body of taxpayers and tax practitioners concerning the rate-making treatment to be accorded the JDC.

The Commission has considered the evidence presented concerning the cost-free nature of these funds and the decision it faces with regard to the granting of the overall or full equity return. The Commission does not desire to create a situation where Duke would lose this tax advantage; however, the Commission places greater weight on the IRS proposed regulation regarding the potential loss of the credit rather than the conflicting evidence of record and therefore concludes that the minimum return required on these funds is the overall rate of return.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11, 12, AND 13

The capital structure as presented in the Company's filing and as presented by the Public Staff differed in the following respects:

1. In its filing, the Company presented a pro forma capital structure consisting of 46.19% long-term debt, 12.01% preferred stock, 35.20% common equity, and 6.60% cost-free capital. The Public Staff updated the actual capital structure to December 31, 1977. During the course of hearings in this docket, the Company contended that the pro forma capital structure in its filing was more representative of the Company's actual capital structure at March 31, 1978, than was the Public Staff's.

G.S. 62-133(c) permits the updating of historical test-period data to show actual changes occurring up to the time the hearing is closed. Indeed, the Public Staff recognized the appropriateness of such updating when it updated the capital structure from September 30, 1977, to December 31, 1977.

The Commission believes that the purpose of the test year concept in the fixing of rates is to arrive at an annual level of revenues and costs that is representative of the level the Company can be expected to experience on an ongoing basis.

The Commission has reviewed Duke's capital structure and concludes that the capital structure used herein should approximate the Company's actual capital structure at March 31, 1978. This finding reflects a known change prior to the close of the hearing and is a change the Commission deems necessary, reasonable, and appropriate.

2. The Company included cost-free capital as a component of the capital structure; whereas, the Public Staff deducted the cost-free capital from the rate base. This issue was discussed under Evidence and Conclusions for Finding of Fact No. 3 and need not be repeated here.

3. In its filing the Company included the unamortized balance of the JDC as a part of common equity. As discussed under Evidence and Conclusions for Finding of Fact No. 10, the Commission has found that JDC should not receive the full equity return and thus should not be included as a part of common equity.

The propriety of the exclusion of Duke's equity investment in its subsidiaries from the equity component of the total Company capital structure was not an issue between the parties in this proceeding. However, the Commission is of the opinion that it is proper to treat the Company's investment in its subsidiaries consistent with the treatment of the Company's investment in its utility operations; that

is, such investment should be considered to be financed by the permanent components of capital in the same ratio as such components of capital exist in the total Company capital structure. Further, the Commission is of the opinion, with regard to transactions between Duke and its subsidiaries, that the transfer price for goods and services provided to Duke by its subsidiaries should include a return on the subsidiaries' total investment no greater than the overall rate of return on original cost net investment last found fair by this Commission in its Order establishing rates for Duke's North Carolina retail electric utility operations.

Based upon the foregoing and other evidence of record, the Commission concludes that the proper capitalization rates for use in this proceeding are 50.00% long-term debt, 13.00% preferred stock, and 37.00% common equity, which ratios are calculated as follows:

(000's Omitted)

Item (a)	Total Company Capitalization (b)	Percent (%) (c)
Long-term debt	$1,939,517	50.00
Preferred stock	504,275	13.00
Common equity	1,435,243	37.00
Total	$3,879,035	100.00

When the excess of the fair value of Duke's property, or rate base, over the original cost net investment in the amount of $178,837,000 is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

(000's Omitted)

Item (a)	Fair Value Rate Base (b)	Percent (%) (c)
Long-term debt	$ 806,732	45.01
Preferred stock	209,750	11.70
Common equity	775,818	43.29
Total	$1,792,300	100.00

The cost rates presented by the witnesses for long-term debt and preferred stock differed only slightly. For purposes of this proceeding the Commission concludes that the proper rates are 7.87% for long-term debt and 7.79% for preferred stock.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The Evidence and Conclusions for Finding of Fact No. 14 are contained in the testimony and exhibits of Company witness Olson, Public Staff witness Wilson, Textile Manufacturer witness Currin, and in the rebuttal testimony of Company witnesses Jenrette, Greenberg, Reaves, Dunlea, and Erickson.

The principal mechanism used by Company witness Olson to derive his recommended return on book common equity of 15% to 16% is the discounted cash flow (DCF). Witness Olson calculated the 7.9% dividend yield portion of his DCF equation by dividing the 1977 annual dividend of $1.72 by the average price of Duke's common stock during 1977. Relying primarily on growth rates in earnings and dividends per share, witness Olson used a growth rate of 5.5% to reach his investor return requirement of 13.4%, which he then adjusted to allow for issuance expenses and market pressure. Witness Olson accepted the results of his DCF analysis since it produced a return in excess of the yields available on Duke's debt and preferred issues. He also tested his results by using a beta coefficient analysis which showed Duke's common stock to have more market risk than that of the average electric utility.

In testifying for the Textile Manufacturers, witness Currin also utilized the DCF approach in deriving his cost of equity capital recommendation of 13.55%. In determining the dividend yield portion of his DCF analysis, witness Currin calculated weekly dividend yields for the six months November 1977 - April 1978. He then averaged the weekly yields to obtain monthly yields and, finally, calculated a weighted average of the monthly average yields weighting the most recent month the heaviest. The resultant yield was 8.36%.

In deriving his growth estimate, witness Currin used Company data to calculate the growth rates in earnings and dividends per share for the periods 1967-1968 to 1976-1977. He then calculated a weighted average of the yearly average growth weights weighting the most recent periods the heaviest. The resultant growth rate of 4.39% was obtained by averaging the weighted average growths for dividends and earnings. Mr. Currin's final recommendation included what he believed to be reasonable allowances for issuance expenses and market pressure.

Public Staff witness Wilson reached his recommendation of a 12% cost of equity capital by performing several tests. First, he used a comparable earnings analysis and compared Duke to 100 large electric utilities. Based on this analysis, he determined that the average earnings on common equity for these 100 utilities for the indicated period was in the 11% to 12% range. He cautioned against relying exclusively upon this test because of problems with circularity of reasoning inherent therein.

Witness Wilson also analyzed the earnings of other industrial firms and determined that during the past year these firms had earned approximately 14% on equity. However, he pointed out that utilities provide essential services in a protected market, that utilities are less risky than these unregulated industries, and that the cost of equity capital for a utility would be less than that of the unregulated firm. Additionally, witness Wilson performed a beta coefficient analysis for major utilities and determined that utility common stocks are less risky than the market as a whole. He further concluded by analyzing Value Line's published indexes of safety, price stability, and earnings predictability for a wide variety of firms in all sectors of the economy that utility investments are less risky than investments in unregulated industries.

Finally, witness Wilson employed a DCF analysis for Duke and the 100 electric utilities in his comparable earnings sample. By applying his DCF methodology to the larger group of companies, he arrived at an unadjusted cost of common equity of 11.78%. After determining an unadjusted cost of common equity capital of 11.60% for Duke, he added an allowance for market pressure in deriving his final recommendation of 12.0%.

On rebuttal, Duke presented its four witnesses from the investment community: Jenrette, Dunlea, Reaves, and Greenberg. These witnesses generally criticized the methods and conclusions of Dr. Wilson and testified that the rate of return on equity recommended by Dr. Wilson (12%) was unrealistically low and that a rate of return on equity of between 14% and 15% is required in order for the Company's stock to have a reasonable chance of trading at or slightly above its book value. Dr. Edward Erickson of North Carolina State University also testified on rebuttal for Duke. Dr. Erickson criticized Dr. Wilson's 100-company averaging approach and testified that Dr. Wilson's regression analysis raised more questions than it answered. He concluded that Dr. Wilson's methods provide a less satisfactory estimate of the cost of equity than can be arrived at by a simpler and more direct application of informed judgment.

The determination of the fair rate of return is of great importance and must be made with great care. Whatever return is allowed will be an immediate impact on the Company, its stockholders, and its customers. The Commission has the statutory responsibility to insure that all parties are fairly and equitably treated. In the final analysis the determination of a fair rate of return is to be made by this Commission in its own impartial judgment, informed by the testimony of expert witnesses and other evidence of record. The Commission has considered carefully all of the relevant evidence presented in this case. The Commission takes note of the uncontroverted fact that, despite its acknowledged efficiency, Duke has been unable to earn in either 1976 or 1977 the rate of return on equity which the Commission allowed in its last rate Order in 1975.

The Commission also is cognizant of the substantial construction budget and resulting financing requirements that the Company will face in the immediately succeeding years.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in Utilities Commission, et al. v. Duke Power Company, 285 N.C. 377 (1974), wherein the following statements concerning the level of the fair rate of return appear on 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 Duke's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of the Company's capital structure.

As set forth above, the fair value capital structure of Duke is as follows:

Item (a)	Percent (%) (b)
Long-term debt	45.01
Preferred stock	11.70
Common equity	43.29
Total	100.00

The Commission finds and concludes that the fair rate of return that Duke should have the opportunity to earn on the fair value of its North Carolina rate base for retail operations is 8.98%, which requires an increase in annual revenues from Duke's North Carolina retail customers of $40,327,000 based upon the adjusted historical test year. This rate of return on the fair value of Duke's rate base will allow the Company to meet its fixed obligations and will yield a fair rate of return on Duke's fair value common equity of approximately 10.46%, or approximately 13.59% on book common equity. The Commission concludes that this is a fair and reasonable rate of return.

In setting the return at this level, the Commission has considered all relevant testimony, including the Company's construction program. The Commission has also considered the tests set forth in 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.

The Commission has not made a specific addition to the fair rate of return to offset attrition since it believes other factors are present which tend to offset the effects of attrition, if, in fact, attrition might otherwise occur. For example, the Legislature has provided for an updated test year which helps to insulate the Company from increases in expenses occurring after the test year. Likewise, Duke enjoys the benefit of a fuel adjustment procedure which enables it to recover increases in its operating costs resulting from increases in the cost of fuel. Additionally, recent experience indicates that Duke's electric revenues have continued to grow, thereby helping to offset the effects of inflation. In short, the Commission concludes that Duke will have every reasonable opportunity to earn the rate of return approved herein.

The following schedules summarize the gross revenues and rates of return which the Company should have a reasonable opportunity to achieve, based on the rates approved herein. Such schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions approved by the Commission in this Order.

SCHEDULE I
DUKE POWER COMPANY
DOCKET NO. E-7, SUB 237
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED SEPTEMBER 30, 1977
(000's OMITTED)

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Gross operating revenues	$ 765,330	$40,327	$ 805,657
Operating Revenue Deductions			
Operation and maintenance expenses	395,197	-	395,197
Depreciation	73,649	-	73,649
Taxes - other than income	65,678	2,420	68,098
Taxes - current income	55,482	19,378	74,860
Taxes - deferred income	34,255	-	34,255
Amortization of investment tax credit	(1,524)	-	(1,524)
Total	622,737	21,798	644,535
Net operating income	142,593	18,529	161,122
Less: Interest on customer deposits	173	-	173
Operating income for return	$ 142,420	$18,529	$ 160,949
Investment in Electric Plant			
Plant in service	$2,277,901	-	$2,277,901
Less: Accumulated depreciation	642,624	-	642,624
Cost-free funds	169,659	-	169,659
Net investment	1,465,618	-	1,465,618
Allowance for Working Capital			
Materials and supplies	97,065	-	97,065
Cash	45,672	-	45,672
Required bank balances	11,131	-	11,131
Less: Federal income tax accruals	2,700	-	2,700
Customer deposits	3,323	-	3,323
Total	147,845	-	147,845
Net investment in electric plant in service plus allowance for working capital	1,613,463	-	1,613,463
Fair value rate base	1,792,300	-	1,792,300
Rate of return on fair value rate base	7.95%	-	9.98%

SCHEDULE II
DUKE POWER COMPANY
DOCKET NO. E-7, SUB 237
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN ON FAIR VALUE EQUITY
TWELVE MONTHS ENDED SEPTEMBER 20,1977

(000's OMITTED)

Capitalization	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Fair Value Equity %	Net Operating Income for Return
	Present Rates - Fair Value Rate Base			
Long-term debt	$ 806,732	45.01	7.87	$ 63,490
Preferred stock	209,750	11.70	7.79	16,340
Fair value equity*	775,818	43.29	8.07	62,590
Total	$1,792,300	100.00	-	$142,420
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 806,732	45.01	7.87	$ 63,490
Preferred stock	209,750	11.70	7.79	16,340
Fair value equity*	775,818	43.29	10.46	81,119
Total	$1,792,300	100.00	-	$160,949

*Book common equity	$596,981
Fair value increment	178,837
Total	$775,818

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

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 Public Staff witness Williams. The Public Staff's evidence consisted of an analysis of its investigation of Duke's fuel procurement activities, including its review of the Company's long-term coal contracts and "spot" coal procurement activities.

Public 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 Duke'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 FINDINGS OF FACT NOS. 16 AND 17

The evidence for these findings of fact is contained in the testimony and exhibits of Company witness Stimart and the testimony of Public Staff witness Williams.

Company witness Stimart testified that the Company began accounting for nuclear fuel under a once through (throwaway) concept in July 1977 by providing for estimated disposal expense at the rate of 10.22 cents per million BTU's of nuclear fuel. This action was taken to reflect the current Federal Administration's posture opposing the reprocessing of spent nuclear fuel. Mr. Stimart further testified that an annual amortization adjustment of $5,730,000 for 10 years was necessary to provide for such costs related to nuclear fuel consumed prior to July 1977.

Public Staff witness Williams accepted the estimated cost levels for disposal proposed by Duke but recommended different treatment with regard to the fuel cost adjustment proceedings. Mr. Williams testified that the estimated disposal expense should be included as a separately identifiable component of the basic rate and not subject to month-to-month adjustment in fuel charge proceedings. He further stated that Duke's test year figures contained only three months of estimated disposal expense and appropriate adjustments; to annualize this expense item would increase overall North Carolina retail fuel expense by $6,789,816 and revenues by $7,223,210. He stated that the proper level for inclusion in the basic rates would be 0.0323¢/Kwh.

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 reasonable to include in the total cost of nuclear fuel an estimate of the cost of permanent disposal of the radioactive materials resulting from nuclear plant operations (throwaway fuel cycle). The Commission further concludes that the adjustments to test year fuel expense and revenues to annualize the estimated disposal expense, as testified to by witness Williams, are correct and proper. Based on the evidence and conclusions discussed above, the Commission concludes that nuclear fuel disposal expense should be treated as a separately identifiable component of the basic rates, not to be included in fuel adjustment charges, and that the proper level of disposal expenses to include as a separately identifiable component in the base rate is 0.0323¢/Kwh. Similarly, an additional amount of 0.0126¢/Kwh should be identified in the basic rates to reflect the 10-year amortization of disposal costs related to spent nuclear fuels.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

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 Stimart and Public Staff witness Williams.

Company witness Stimart testified that Duke had not proposed in its application to change the base fuel cost level from the existing level of 0.7923¢/Kwh.

Public 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 test year fuel cost experience. He further stated that two adjustments were necessary to normalize actual test year experience. First, North Carolina retail fuel expense should be reduced by $2,527,680 to remove payments to Peter White Coal Company in excess of levels approved by the Commission in its Order of March 29, 1978. This would also require a revenue adjustment of $2,689,022. Further, as discussed elsewhere in this Order, the estimated cost of the permanent disposal of spent nuclear fuel should be eliminated from fuel charge adjustments. Witness Williams recommended a base fuel cost level of 0.9284¢/Kwh. This recommended level in base fuel cost anticipates a change in the definition of nuclear fuel expenses included in the recommended fuel cost adjustment formula to "exclude estimated cost and salvage value associated with reprocessing and disposal of the nuclear fuel and by-products."

Based upon the foregoing testimony and exhibits, the Commission concludes that the base fuel cost level of 0.9284¢/Kwh is 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 and that the basic rates and fuel cost adjustment formula proposed by Duke should be adjusted accordingly. The Commission further concludes that the change in definition of allowable nuclear fuel expenses in the fuel cost adjustment formula recommended by witness Williams is appropriate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

The Commission takes judicial notice of Duke's application in Docket No. E-7, Sub 254, 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 September 1, 1978.

The rates herein approved contain a different base fuel cost level (0.9284¢/Kwh) than the base fuel cost level (0.7923¢/Kwh) approved in the basic rates in Docket No. E-7, Sub 173, 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 three-month test period in Docket No. E-7, Sub 254, and making appropriate changes in the computation of the adjustment factor to reflect the change in the base fuel cost level result in a charge of 0.1068¢/Kwh. This is the proper and appropriate Approved Fuel Charge that should be applied to the basic rates approved herein during the September billing month.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The evidence for this finding is contained in the testimony of the public witnesses who testified throughout the State and Public Staff witness Kimball. Based on that evidence and the record as a whole, the Commission concludes that the level of services being provided by Duke to its retail customers is good and that the Company's procedures for handling customer complaints are adequate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

Duke Power Company in this docket either filed or provided at the request of the Public Staff and Intervenors cost of service studies based on both summer and winter coincident peak demand factors for both 1976 and 1977. There also appeared in evidence studies for both years based on the average of the summer and winter peaks.

Under cross-examination, Company witness Hatley testified that Duke's forecasting department presently projected the Company as a summer peaking company and that it was therefore appropriate to use the single coincident peak allocation method based on the summer peak.

Mr. Hatley also testified that if the Company was to become winter-peaking, it would be necessary to use some method of allocation other than the single coincident peak during the transition period in order to avoid sudden increases and decreases in rates to customer classes which have characteristic seasonal peaks. Witness Hatley testified that a method using the average of a summer and a winter peak would be appropriate to use during such a transition period.

Public Staff witness Bumgarner testified under cross-examination that Duke experienced significant seasonal peaks in both the summer and winter. Witness Tucker, also testifying for the Public Staff, stated under cross-examination that the summer peak was, at this time, the system's natural peak. Both witnesses Bumgarner and Tucker

stated that they felt that it would be appropriate for the Commission to begin looking at cost of service studies based on the average of two or more peaks.

Based on the above evidence, this Commission concludes that Duke is experiencing multiple, significant seasonal peaks but that at the present time the summer coincident peak is the appropriate one on which to base a cost allocation study for use as a guideline in determining rates. This Commission also concludes that the Company should be directed to file annual cost of service studies, in addition to those now being filed, which are based on the winter annual peak. It is further concluded that Duke should be directed to begin collecting and compiling monthly coincident peak demand data which will enable it to produce cost of service studies based on averages of multiple coincident peaks in conjunction with future rate cases.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 22, 23, 24, 25, 26, 27, AND 28

Rate design testimony was presented primarily by H.T. Hatley, Jr., for Duke Power Company, N.E. Tucker, Jr., for the Public Staff, and Drs. J.R. Neufeld and J.M. Watts for Carolina Action.

The Company proposed several changes in the design of the residential rate schedules. First, Duke proposed to limit the availability of the existing Schedules RW (electric water heating) and RA (all-electric) to current structures. New homes would be served on Schedule R (residential) or RC (energy conservation). Schedule RC is a proposed new offering designed to promote the conservation of energy and demand. The only requirement to qualify for Schedule RC is installation of thermal control products (insulation, primarily) sufficient to meet the specifications of Duke's Energy Efficient Structure (EES) Program. Under Duke's proposal, Schedule RC would be priced approximately 2% below the Schedule RA's new rate and significantly less than Schedule R as proposed by Duke. The pricing of RC would reflect the anticipated savings to Duke in demand related costs attributable to the additional insulation requirements of Schedule RC. Duke testified that its engineering studies showed that insulation to its EES standards would reduce its overall peak demand significantly and that the savings resulting from these homes converting or building to these high insulation standards should be passed directly back to those responsible for the savings. Under Duke's proposal, any new residential structure completed more than six months from the effective date of rates would not have the choice of the closed RA or RW schedules but would be placed on either the R or RC rate schedules. The Company's testimony indicated that eventually there would be only two residential rate schedules, R and RC. Adjustments made to the existing rate schedules reflect this goal. In the Company's proposal, the Basic Facilities Charge was set at $4.30 for each residential rate schedule. In addition to

equalization of the Basic Facilities Charges, the rate for the first 350 Kwh's was proposed to be the same for Schedules R, RW, and RA. These changes reflect the first step toward consolidation of the residential schedules. The Company's proposal applied the average increase of 9.48% to the residential class as a whole; however, the individual residential schedules receive increases of differing amounts. This arose from the Company's efforts to move toward only two residential schedules, the general residential Schedule (R) and the energy conservation Schedule (RC). The proposed Schedule R produced an increase in revenues of 7.2%. The proposed increase in RW revenues was 9.7%; Schedule RA would have received a 10% increase.

The Company stated that each of the proposed General Service and Industrial Service Schedules (with the exception of outdoor lighting) was adjusted across the board by an increase of 9.48% in total revenues. In the design of all of the proposed rate schedules, the fuel adjustment factor was assumed to remain as currently in effect. The experimental voluntary time-of-day rates were also increased to produce the average percentage increase in revenues. A special analysis was performed on the outdoor lighting schedules. The result was a proposed change in the pricing of each luminaire offered with no net change in total revenues. In most cases the proposed prices were reduced with small increases occurring only in the small mercury vapor offerings.

The Public Staff's testimony suggested several changes in the proposed residential schedules. The Public Staff testimony agreed with the concept of the consolidation of the three existing residential schedules. Several changes were proposed which would move the rates more in that direction. First, Basic Facilities Charge and energy price for the first 350 Kwh's were increased to reflect more closely the cost of supplying electricity to the small customers. The Public Staff also proposed a slight change in the blocking of Schedule R and RA to eliminate the block from 1300 to 1500 Kwh. This change not only simplifies the rate structure, but results in the same blocking for all three rate schedules which would enhance future consolidation of these schedules. It was proposed to make the price of the 350-1300 Kwh block of Schedules RW and RA the same. The price would be less than the same block of Schedule R to reflect the lesser per-unit costs which the operation of an approved electric water heater causes the system to incur. Finally, the Public Staff proposed a summer-winter differential in the tail block of Schedule RA. The Public Staff stated that, during the cooling season, there is less justification for charging lower rates to all-electric customers than to the water-heating customers. For this reason, it would appear that it is less appropriate for the Schedule RA customer to be charged the winter rates year round through the summer seasons. Also, increasing the summer tail block rate of Schedule RA would again move closer to future rate consolidation.

The Public Staff agreed with the concept of the energy conservation rate schedule, Schedule RC, and developed a schedule which would produce approximately 2% less annual revenues than Schedule RA to reflect anticipated savings in demand related costs. Under the Public Staff's proposal, Schedule RC would also include a summer-winter differential because a seasonal differential would add a great deal of flexibility for future adjustments to the schedule to reflect actual impact of the schedule on seasonal system costs.

In addition to the changes suggested for the residential rate schedules, the Public Staff proposed modifications to the major general service and industrial schedules. The Public Staff proposed to bring those schedules closer together in the front-end in order to achieve a more uniform bill for small customers taking service under those three schedules. Prior to the Order issued in Docket No. E-7, Sub 159, a small customer would receive the same bill whether that customer was served on Schedule G, GA, or I. Since the Order in that docket, Schedules G and GA have been lower in the front-end blocks than Schedule I. The proposal of the Public Staff would tend to restore that relationship.

The Public Staff agreed with the Company's proposed design of the remaining schedules.

Drs. Nuefeld and Watts, the witnesses for Carolina Action, testified on the design of the residential rate schedules only. They stated that marginal costs must be the starting point from which rates are developed. They testified that Duke's proposed rates do not reflect the principles of marginal cost pricing. The witnesses offered detailed criticism of Duke's rates with respect to the following issues: (1) the declining block nature of Duke's proposed residential rates; (2) the retention by Duke of the RA and RW subclasses; and (3) the proposed residential conservation Schedule RC. With respect to the RC Schedule, the witnesses questioned whether lower rates for homeowners meeting Duke's insulation standards will have a beneficial effect on Duke's costs. The witnesses stated further that the effect of the RC rate might well be to increase a homeowner's consumption of electricity. In summary, they testified that the RC rate appears to be another promotional rate. Several residential rate schedules were proposed by the witnesses; in general, these proposed rates were flat or inverted schedules.

John Crosland, Jr., a builder and developer in Charlotte, testified that many of his fellow builders are concerned with Duke's specifications for the proposed RC rate. He stated that in many cases new homes are being built today which cannot meet Duke's BES specifications without major structural changes. Also, he testified that these specifications are inflationary to housing costs and would exceed any reasonable rate of return on dollars invested by the homeowner. In support of his testimony, the witness presented studies based on heat loss and heat gain

calculations on two of the most popular homes built in the Charlotte area.

In considering these matters the Commission recognizes the interrelated problems of simultaneously providing adequate, efficient, and economical electric utility services. If the only criteria to be met were those required to produce adequacy in terms of reliability and ability to meet loads demanded by customers, the task would be less complicated. Likewise, if "economical" was the only requirement, the task would be simplified. To be assured of adequate service capability, there must be a reserve of plant and transmission ties to allow for normal plant maintenance and unexpected outages of equipment or unexpected load growth. But these plant reserves are expensive. Improvement in the adequacy of service is a detriment to the economy of the service. Furthermore, in all that we do, we must recognize that much of our problems are weather related; we must plan on normal weather, but we cannot lose sight of the changes in power requirements which result from abnormally mild or severe weather. A balance is necessary in providing efficient, economical, and adequate electric utility service.

The most efficient method of recovering costs from the ratepayers who cause them to be incurred is through a three-part rate, utilizing a customer charge, demand charge, and an energy charge with each charge reflecting current costs of its provision. Ideally, demand and energy measurements should be made at peak and off-peak times in order to properly charge for service received. But the cost of time and usage recording demand meters and the expense of interpreting the recordings is thought to be too great at the present time to be generally used. Experiments utilizing meters to measure on-peak and off-peak usages are now underway. For this reason, the demand of the large customers is generally measured simply with an indicating demand meter which registers only the maximum peak between readings. Even these meters have been considered too expensive for use for small loads.

For the residential schedules, then, we are presently faced with the problem of recovering the three components of cost; customer, demand, and energy, without the use of a customer-by-customer measurement of peak demand let alone any differentations between off-peak and on-peak usage. The most appropriate means of recovering demand costs, therefore, is to include them on the rate blocks. However, we must use care in placing the demand costs into the rate blocks or one or both of two situations can occur. First, some customers may be discriminated against (or for) by paying more (or less) than the cost of their service. Second, the recovery of costs by the Company may become unduly sensitive to changes in the weather. However, using summer-winter differentials in rates can be an aid in proper charging of demand costs.

In this case, as in all others in recent years, there have been recommendations by some that residential rates should be inverted. The essential foundations of these recommendations are that higher tail-end charges approach marginal costs and that the price elasticity of higher charges discourages electricity use and encourages conservation. In recognition of these contentions, we have flattened the rate schedules moderately by raising the high end usage blocks. However, inverted rates have very serious implications with respect to the stability of cost recovery and the ability of the Company to continue to borrow funds at reasonable rates and provide reasonable service. Peak load pricing with specialized meters offer more promise in recovering appropriate system costs without introducing as major a problem of instability into the rate structure. As stated earlier, experiments to see if benefits outweigh the additional costs of metering are underway in North Carolina.

The problem of instability of revenue under inverted rates can be seen more clearly if one assumes for illustration purposes that Duke's electric customers' demand for electricity is completely unrelated to its price (i.e., zero elasticity) and that adequate facilities to serve loads during severe weather are in place. Once facilities are in place to provide adequate and reliable service, the extra costs incurred during severe weather, and the costs saved during extremely mild weather are essentially only fuel costs. If inverted rates are used, the extension of usage or contraction of usage will be charged at too high a cost. The result would be that, in periods of extreme weather conditions, when customers' usages and resulting bills are extended without their control and to the extent the assumptions are true, the Company would reap windfall profits--at a time when it is most difficult for consumers to pay. Conversely, during extremely mild weather and to the extent the assumptions are true, the Company would not recover its costs and its continued ability to finance required growth would be impaired--at a time when it is least difficult for customers to pay.

For these reasons, we must strike a balance between recovery of appropriate demand costs early in the basic usage portion of the schedule and recovery of appropriate demand costs for the increased usage which occurs from both weather-related and nonweather-related causes. The Commission concludes that it is appropriate to reflect marginal costing where feasible. The rate designs adopted herein reflect this move in several areas. Tail-end rates have been increased more than front-end rates. One class (SSI) of customers identifiable as being relatively price inelastic; the blind, disabled, or aged receiving Supplemental Security Income from the Social Security Administration, has been granted reduced rates (either no increase or a decrease depending upon the schedule) for the basic usage of 350 Kwh per month.

Residential rates have been shifted toward enabling future consolidation. In addition, the Commission is closing the present RW and RA schedules for service to new residential structures which do not have building permits before January 1, 1979. Existing customers may continue to be served under those schedules. Service to new homes will then be allowed only on Schedule R or the new Schedule RC. Schedule RC was originally proposed to carry a 2% discount below the RA rate to reflect the impact of the greater insulation of the structure on the costs of providing service to it. Duke presented summaries of engineering calculations which indicated expected reductions in costs below those required to serve RA customers. However, there is no experience with actual installations to verify the expected results and, therefore, evidence on this matter of extra benefit to the electric system operations and load factor is inconclusive at this time. The extra insulation will, of course, save energy and thus lower consumers' total bills. The Commission also recognizes that the energy prices used to develop the requirements of the present ASHRAE standard upon which our Building Code is based are 1969-70 era prices and do not reflect the impact of future energy prices. The structures now being constructed will be in use long after our present electricity supply system has been replaced. For that reason, we must plan ahead. The Commission concludes that the RC rate should be instituted but that the initial rates should not be set below the cost-proven RA rate level. After sufficient experience is gained, final levels will be set in future hearings.

Although the requirement that the structure meet the provisions of Duke's Energy Efficient Structure of the RC rate requirement was criticized as being unduly restrictive, the Commission considers the fact that both the Farmers Home Administration requirements and the standard package home offered by Lowe's, a builder's supply firm, exceed the specifications of Duke's EES to be persuasive that such standards are not out of the ordinary. Duke's Energy Efficient Structure program includes specific standards but allows the flexibility to use alternate heat transfer reduction methods as long as equivalent heat transfer reductions are achieved.

The Commission concludes that it is appropriate to update insulation requirements and to support the installation of the levels of heat transfer reductions included in the Energy Efficient Structure program promulgated by Duke as a part of its load management program. Residential structures meeting these heat transfer reductions will contribute substantially to lowering future plant requirements and to the reduction in use of our natural resources. The rate is cost-based, nondiscriminatory, and, given the rate modifications listed above, should produce the system average rate of return. The Commission further concludes that the standards should offer some flexibility in the form of options that sould be made and still meet the heat loss and heat gain standards.

Although the evidence in this proceeding was to the effect that 95% of Duke's homeowner customers desiring loans would be able to obtain conventional financing for insulation improvements required under the EES program in order to qualify for the RC rate, the Commission is concerned about those lower income homeowner customers who may be unable to obtain conventional financing to meet the EES specifications. With respect to these customers, the Commission concludes that Duke should develop and implement a program to assure the financing of improvements under the EES program, either through direct loans by Duke or through arrangements by Duke to guarantee the financing from an outside financial institution.

The Public Staff rate design philosophy of moving low use charges on the general and industrial schedules closer together has been adopted. The G and GA schedules were modified to reduce the crossing effect which occurred at larger usages.

The Commission concludes that these changes in rate design are cost responsive and will, on balance, promote a more efficient and economical electric utility system to serve our future needs.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Duke Power Company is hereby allowed to place into effect the rates described in Paragraph 3 below, which rates are designed to produce annual revenues of $805,657,000.

2. That the proposed rates filed by Duke, which were designed to produce additional revenues of $70,462,000, are in excess of those which are just and reasonable and the same are hereby disapproved and denied.

3. That effective for service rendered on and after the date of this Order, Duke is hereby allowed to place into effect the increased rates as set forth in Appendix A, which rates are designed to produce additional annual revenues in the amount of $40,327,000. The Commission shall file amended tariffs reflecting the rates contained in Appendix A on or before September 4, 1978, including its proposed specifications for the EES program.

4. That an approved fuel charge formula set forth in Appendix B to this Order is hereby approved to be added to the basic rates approved herein.

5. That Duke shall eliminate on a prospective basis the cost-free component from the formula prescribed by this Commission in Docket No. E-100, Sub 27, for use in calculating the rate to be used in the capitalization of Allowance for Funds Used During Construction (AFUDC).

6. That in future filings of general rate increase requests, Duke shall file as a part of NCUC Form E-1 (Rate Case Information Report) in support of its total working capital requirement a properly prepared, complete, detailed lead-lag study.

7. That in future transactions between Duke and its subsidiaries, the transfer price for goods and services provided to Duke by its subsidiaries shall not include a return on the subsidiary's net investment any greater than the overall rate of return on original cost net investment last found fair by this Commission in its Order establishing rates for Duke's North Carolina retail electric utility operations.

8. That Duke shall file with the Commission an annual cost-of-service study based on the annual winter coincident peak and shall begin collecting data which will enable it to produce cost-of-service studies based on the averages of multiple coincident peaks in conjunction with future rate cases.

9. That Duke shall develop and implement a program designed to assure financing for those homeowner customers of Duke who are unable to obtain conventional financing of the required EES improvements in order to qualify for the RC rate; further, Duke shall file such financing program with this Commission for approval.

10. That Duke shall give public notice of the rate increase approved herein by mailing a copy of said notice hereto attached 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 31st day of August, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX C

DOCKET NO. E-7, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Power Company for Authority to Adjust and Increase Its Electric Rates and Charges	NOTICE TO CUSTOMERS

The North Carolina Utilities Commission, in a full Commission Order issued today, denied a major portion of the rate increase applied for by Duke Power Company on its

retail electric service in North Carolina, and authorized an increase amounting to 57% of the increase applied for.

Duke had applied for an increase of $70,462,000 in additional annual revenue which would have been an overall increase of 9.4%. The Public Staff intervened in the case and offered testimony that Duke could decrease its rates and still have an adequate return. The City of Durham, Carolina Action, and the Attorney General also intervened for the using and consuming public. The Commission conducted public hearings during June and July in Durham, Marion, Hendersonville, Charlotte, Greensboro, and Raleigh.

The Commission Order allowed an increase of $40,327,000 for an overall increase of 5.27%. The Commission held that the approved rates would provide an overall rate of return of 8.98% on the fair value of Duke's property serving the public, which was found to be $1,792,000,000. The Commission found that this increase was necessary for Duke to maintain good service and to continue a reasonable construction program for forecast growth and generation reserves sufficient to prevent power shortages. The increase was based on general inflation in Duke's costs since the last general rate increase effective in December 1975.

In the design of Duke's rates, the Commission held the increase to 4.51% on the first 350 kilowatt-hours for residential R customers, and established a summer-winter differential with a lower winter rate for all kilowatt-hours over 1300 kilowatt-hours per month, where electric heat use would fall.

The Commission also provided a special rate classification for customers over 65 or blind or disabled who qualify for supplemental security income (SSI) administered by the Federal Social Security Program.

The Commission authorized a special conservation rate (residential RC) which offers an incentive to those customers who install special insulation, either in existing residences or newly constructed residences meeting the energy efficient structure (EES) program. The Commission found that the EES insulation program would ultimately save construction of generating capacity through its energy saving features, and passed this saving on to customers installing such insulation. The insulation program includes a plan for customers to install insulation in existing homes by bank loans arranged by Duke with inspection of the insulation by Duke. The Commission ordered that Duke establish a program to arrange direct loans to any customers who could not secure loans under the bank plan.

The rates approved by the Commission for typical residential customers would go from the present $20.72 for the average of 500 kilowatt-hours in the R schedule to $21.66, an increase of 4.54%. In the RW schedule (electric

water heater), the average consumption of 1,000 kilowatt-hours would go from $36.03 to $38.00, an increase of 5.47%. The increase for the RA customer (all electric) at the average consumption of 1,500 kilowatt-hours per month would increase from $52.11 to $55.01 in the summer, an increase of 5.57%, and to $54.19 in the winter, an increase of 3.99%.

The Commission Order provided that the present RW (water heater) and RA (all-electric) rates would be closed after January 1, 1979, except to a customer with a building permit for construction not completed at that time, and the present RW and RA customers would continue to receive service under those rate schedules, but no new structures would be added to these schedules. In place of the RW and RA schedules, the Commission approved the new RC (insulation schedule) at the same rates as the closed RA schedule, with the requirement of a greater amount of insulation than previously required for the old RA rate. The new insulation plan requires insulation rated as R-30 or better in the ceiling, being eight to ten inches of insulation depending upon whether batts or blown type, and corresponding heavy insulation in the walls, floors, dual pane or storm windows and insulated doors and other limitations on the heat loss and window size. Insulation for existing structures would take into account some of the problems of retrofitting older homes with insulation. The RC rate would be available for all customers, regardless of the type of heat or water heater used.

The special SSI rate established by the Commission would, in effect, provide for no increase for this class of customer for the first 350 kilowatt-hours of consumption per month, which, in effect, is a 4.51% discount from the increased rates for the first 350 kilowatt-hours for this group. The testimony at the hearing on this group estimated that approximately 20,000 of Duke's 800,000 retail customers would be eligible for this rate. The Commission estimated that the revenue effect of this action would be to impact Duke's overall North Carolina revenue of $805,000,000 per year by less than $175,000. This special rate classification was authorized, both on the basis of the relative inelasticity of demand of this group and the desire of the Commission to collect realistic data on the effect of a lower than average rate on electric use by this rate group, in accordance with the Legislature's directive that the Commission study the applicability of lifeline rates.

The new Duke rates will incorporate an up-dated fuel cost in the base electric rates and the fuel surcharge would be substantially reduced in the future.

The customer charge for all residential customers was fixed at $4.30 per month, the same as the present R customer charge. This charge covers part of the fixed customer costs incurred regardless of the amount of electricity consumed, including reading meters, billing, collecting, and the

maintenance and depreciation on the meter and other company property on the customer's premises.

The Commission Order being issued on August 31, within the six months period from which the rates would have gone into effect under Duke's original rate filing, nullifies the announcement made by Duke on August 17 that it would put its full rates into effect under bond for refund on September 1, 1978. The Commission approved rates will become effective on service rendered on and after September 1, 1978.

Commissioner Tate filed a separate opinion concurring in large part with the Commission's decision, but dissenting from the Commission's denial of an equity return to Duke on the job development tax credit, and the denial of Duke's request for a larger discount for the RC (insulation) rate schedule than for the RA rate schedule; and from the Commission's requirement that Duke assure insulation loans to customers who could not obtain the bank loans.

COMMISSIONER TATE, DISSENTING: I concur in large part with the Order today issued in the Duke Power rate case. I do, however, dissent to the following portions of the decision:

1. Finding of Fact 10. I disagree with the majority conclusion that the job development investment tax credit should receive only an overall rate of return. I have read ad nauseum, the applicable section of the Internal Revenue Code, informational letter, proposed regulation, and reports from both the Senate and House Committees regarding this matter. None of the above are clear or unequivocal, however, on balance, it is my interpretation that the Code states that the full equity return should be allowed on the JDIC and the Committee Reports confirm this intention by Congress. Additionally, it is my understanding that the regulation, having been proposed for seven years, but never adopted, is again under study by the IRS and hopefully, there will be a definitive rule in the near future. Having concluded that the Code requires a full equity return and that this was the intention of Congress, I feel it is inequitable to allow less, pending a final determination of this matter.

2. Finding of Fact 22. (a) I am also opposed to the decision of the Commission that sets the same rates for RA and RC customers. The new RC rate is, in my opinion, an innovative attempt on the part of Duke Power Company to encourage customers to conserve electricity by installing insulation in their homes. Since homes constructed or renovated according to BES standards will have less heat loss in the winter and less heat gain in the summer, those customers would use less energy in total and would create less demand on the electricity supply system during both the summer and the winter peaks. In the long run, Duke Power will be able to cut back on future construction since RC customers will create less demand both at summer and winter

peaks and during off-peak hours. On the other hand, customers in the RA rate schedule were in past years given a "promotional" rate because of their decision to increase their electric consumption by having all electric appliances for space heating, cooking and water heating. It is true that the requirements for RA also did require some increased insulation, but the amount of insulation required for RA homes is approximately the same insulation now required in all new homes in North Carolina under the Building Code. While I believe that RA should have lower rates than R, as was proposed by both the Company and the Public Staff, I do not believe that RA customers should receive the same discount as RC customers. It is patently inequitable to me to allow RA customers, with lesser insulation, 32% greater heat loss, and who are large users of electric power to receive the same benefit as RC customers who elect to build or renovate their homes in order to conserve energy and thereby cut down the necessity for future electric power construction.

(b) I disagree with the Commission's decision to order Duke Power Company to enter the banking business by becoming the lender of last resort for persons who are unable to obtain bank loans in order to insulate their homes. I believe that Duke Power has done an excellent job of convincing all of the banks in their territory to make loans for insulation in retrofitting homes. Both the EES program and the program for older homes are in very early stages. I believe it would be far wiser for the Commission to allow this program to continue for one year and at the end of that time to request data from Duke Power Company as to whether or not there is a proven need for Duke to become the lender of last resort. There was no evidence presented in this case as to a workable plan under which Duke would lend to customers for the purpose of insulating their homes. There are questions of whether or not a lien should be obtained, as to what interest should be charged, as to how these loans would be repaid and over what period of time. What should Duke do if a customer pays his electric bill but not his insulation bill; will that customer be subject to having his electricity cut off? Can or should Duke foreclose in the event of non-payment? There are many unexamined and unresolved problems. I believe it is premature for the Commission to make this decision and it is improper to do so without having fully examined the issue during the course of the hearing.

Sarah Lindsay Tate, Commissioner

DOCKET NO. E-7, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Power Company for an Adjustment of Its Rates and Charges in Its Service Area Within North Carolina	) ORDER APPROVING) FINAL RATE) SCHEDULES

BY THE COMMISSION: On August 31, 1978, the Commission entered its Order Granting Partial Increase in Rates. Included in that Order was an initial set of rates designed to recover the allowed revenues. During the subsequent verification process, it was determined that the ordered updating of the fuel cost included in the basic rates and excluded from the fuel charge adjustment was not fully accomplished in the initial rate schedules. The initial rates are deficient by .0243¢/Kwh and should be increased by that amount in order to correctly yield the revenues originally allowed by the Commission. The final rate schedules approved in this Order will produce the correct revenues approved in the Order of August 31, 1978. The Commission concludes that the rate schedules attached in Appendix A should be approved as final rates.

IT IS, THEREFORE, ORDERED:

1. That effective for service rendered on and after September 1, 1978, Duke is hereby allowed to place into effect the final rate schedules as set forth in Appendix A, which rates are designed to produce additional annual revenues in the amount of $40,327,000.

2. That Duke shall file amended tariffs reflecting the rates contained in Appendix A on or before September 12, 1978. The filing shall include an official filing of the April 1978 revised PES standards.

3. That Duke shall give public notice of the rate change approved herein by mailing a copy of said notice hereto attached as Appendix B by first-class mail to each of its North Carolina retail customers during the next normal billing cycle.

4. That, except as herein modified, the Commission's Order Granting Partial Increase in Rates of August 31, 1978, is affirmed.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

DOCKET NO. E-7, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Power Company	) SUPPLEMENT TO
for an Adjustment of Its Rates and	) ORDER APPROVING
Charges in Its Service Area Within	) FINAL RATE
North Carolina	) SCHEDULES

BY THE COMMISSION: On August 31, 1978, the Commission entered its Order Granting Partial Increase in Rates. Included in that Order was an initial set of rates designed to recover the allowed revenues. During the subsequent verification process, it was determined that the ordered updating of the fuel cost included in the base rates and excluded from the fuel charge adjustment was not fully accomplished in the initial rate schedules. An Order was issued on September 6, 1978, which was intended to change the schedule of rates to complete the updating. It has come to the Commission's attention that the September 6 rates are deficient by .0169¢/Kwh and should be increased by that amount in order to correctly yield the revenues originally allowed by the Commission. The final rate schedules approved in that Order, if modified as in Appendix A attached hereto, will produce the correct revenues approved in the Order of August 31, 1978. The Commission concludes that the Rate Schedules and Notice attached to the September 6 Order should be changed as shown in Appendix A attached hereto.

IT IS, THEREFORE, ORDERED:

1. That effective for service rendered on and after September 1, 1978, Duke is hereby allowed to place into effect the changes to final rate schedules as set forth in Appendix A, which rates are designed to produce additional annual revenues in the amount of $40,327,000.

2. That Duke shall file amended tariffs reflecting the rates contained in Appendix A on or before September 12, 1978. The filing shall include an official filing of the April 1978 revised EES standards.

3. That Duke shall give public notice of the rate change approved herein by mailing a copy of the notice attached as Appendix B to the September 6 Order, as amended herein, 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 8th day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele Chief Clerk

(SEAL)

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

DOCKET NO. E-7, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Power Company for and Adjustment of Its Rates and Charges in Its Service Area Within North Carolina	) ORDER CORRECTING) SSI RATES AND) LIGHTING RATES

BY THE COMMISSION: The Commission's Order of September 8, 1978, omitted the revised rates for the first 350 Kwh for recipients of Supplemental Security Income payments and incorrectly stated the rates for lighting service.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the charges for the first 350 kilowatt-hours use per month under the reduced rate for SSI recipients effective for service rendered on and after September 1, 1978, shall be reduced to 2.76¢/Kwh for Schedule R, 2.68¢/Kwh for Schedules RW and RWX, and 2.79¢/Kwh for Schedules RA, RAX and RC.

(2) That the reduced lighting service rates attached as Appendix A shall be effective for service rendered on and after January 1, 1979.

(3) That this Order shall become effective on November 15, 1978, unless protests and requests for hearing are received on or before November 13, 1978.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of November, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

Lamp Size		Monthly Rates	
Schedule T			
4000	MVS	$ 2.55	$ N/A
7500	MVS	3.60	4.00
7500	MVU	4.20	4.60
20000	MVU	5.85	6.25
55000	MVU	11.10	11.50
9500	HPSVU	6.55	6.95
13000	HPSVS	6.60	7.00
16000	HPSVU	6.80	7.20
27500	HPSVU	7.85	8.25
38000	HPSVU	7.65	8.05
50000	HPSVU	8.30	8.70
140000	HPSVU	18.70	19.10
Schedule T2			
7500	MVS	$ 4.00	
20000	MVU or MVS	6.25	
Schedule T2X			
4000	MVPTE	$ 4.15	

DOCKET NO. E-7, SUB 243

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Duke Power) ORDER DENYING ALLOWANCE OF
Company for Authority to) INCLUSION OF $55 PER TON
Adjust Its Electric Rates) COAL FROM PETER WHITE PROJECT
and Charges Based Solely) IN CALCULATION OF CURRENT FUEL
upon Change in Cost of Fuel) ADJUSTMENT CHARGE

BY THE COMMISSION: On February 27, 1978, Duke Power Company (Duke) made Application to this Commission for authority to charge a fuel cost adjustment of 0.3501¢/Kwh on all bills rendered on and after April 1, 1978. The Public Staff and Duke presented testimony concerning the poor operation of the Peter White Mine and the resultant high costs per ton of coal received by Duke from the project.

The Commission has found and concluded the following:

(1) That it was necessary and desirable for Duke to place under long-term contract approximately one million tons of coal per year to assure a coal supply to its new base load Belews Creek generating station,

(2) That Duke properly investigated many alternative sources of coal supplies,

(3) That the Peter White Project appeared to be the only venture available with sufficient coal reserves at a location from which unit trains could be economically dispatched,

(4) That Duke entered into its binding agreements concerning the Peter White Project (in good faith),

(5) That 1976 production from the project was in excess of 400,000 tons and 1977 production was expected to be in excess of 800,000 tons,

(6) That Duke accrued the development costs of Peter White during the period prior to declaring the project operational on January 1, 1977, and that Duke began amortizing the development costs in January 1977,

(7) That floods, rockslides, frozen equipment, and other weather related disasters in the Spring of 1977, wildcat strikes during the summer and fall, and the full UNMW strike in December severely limited production from the project such that only 368,000 tons were received at Belews Creek from Peter White, and that the inclusion of amortized development costs results in a price per ton of approximately $55,

(8) That Peter White has not achieved full operational status for significant periods of time and should not be considered in full commercial operation, and a $55 per ton price for such coal is found to be unreasonable.

(9) That Duke should revert to development status at Peter White until such time as the project becomes fully operational and the Commission specifically approves continuance of the amortization of development costs.

(10) That the highest prices paid for coal by Duke during 1977 not including Duke's affiliated operations ranged from $28 to $35 per ton, that the cost of replacing Peter White coals could be expected to have been in this range, and that the prices allowed to be included at this time in the calculation of the fuel adjustment should not exceed the highest price paid for coal from other sources than Duke's affiliated operations. This will result in a reduction of approximately $300,000 in the coal cost used to calculate the fuel adjustment.

IT IS, THEREFORE, ORDERED:

(1) That, prospectively for rate-making purposes, the Peter White Project is hereby declared to be still under development and that development costs in excess of those allowed hereinafter shall be accrued until the project is declared operational by this Commission.

(2) That, to the extent that the fuel adjustment charge calculated by Duke to apply to all bills on and after April 1, 1978, includes costs for Peter White coals added in November, December, or January at a cost in excess of the highest costs paid for coals from nonaffiliated mines of $32.50, $31.50, and $31.50, respectively, the Application is hereby denied.

(3) That nothing in this Order shall be deemed to have retroactive effect.

(4) That, on or before 10:00 a.m., Friday, March 31, 1978, Duke Power Company shall file with the Commission a recalculation of the fuel adjustment charge based upon November 1977, December 1977, and January 1978 fuel costs not including excess costs paid for Peter White coals.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of March, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. E-22, SUB 224

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Virginia Electric and Power Company for an Adjustment of Its Rates and Charges in Its Service Area Within North Carolina	) ORDER GRANTING PARTIAL INCREASE IN RATES

HEARD IN: Assembly Room, Williamston City Hall, Williamston, North Carolina, on Wednesday, May 16, 1978, at 9:30 a.m.

The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on May 17-19, 23-25, 29-31, June 1, and June 19, 1978

BEFORE: Commissioners Leigh H. Hammond, Presiding; and John W. Winters and Edward B. Hipp

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, and Edward Roach, Hunton and Williams, Attorneys at Law, P.O. Box 1535, Richmond, Virginia

Thomas R. Eller, Jr., Attorney at Law, NCNB Regional Operations Center, Suite 105, 1305 Navaho Drive, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: W.R. Grace and Company, Abbott Laboratories, Inc., Schlage Lock Company, Weyerhaeuser

For the Using and Consuming Public:

Jerry B. Fruitt, Chief Counsel, and Paul L. Lassiter, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

Jesse C. Brake, Special Deputy Attorney General, Dennis P. Myers, Assistant Attorney General, P.O. Box 629, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 16, 1978, Virginia Electric and Power Company (hereinafter Vepco, the Company, or the 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 March 1, 1978. In its application, Vepco proposed an annual increase in gross revenues of $13,224,000 or 22% based upon the 12-month period ended June 30, 1977.

By Order issued February 7, 1978, the Commission declared the application to be a general rate case under G.S. 62-137, suspended the effective date of the proposed rates for a period of 270 days, 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 ended June 30, 1977. In its Order, the Commission required Vepco to publish Notice of the Hearing scheduled to begin on May 16, 1978.

On January 26, 1978, the Attorney General filed Notice of Intervention on behalf of the using and consuming public. On February 15, 1978, the Public Staff, by and through its Executive Director Hugh A. Wells, also filed Notice of Intervention on behalf of the using and consuming public. The Intervention of the Attorney General is herein

recognized by this Order. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

Motion for Leave to Intervene was filed on April 21, 1978, on behalf of the North Carolina Textile Manufacturers, which Motion was allowed by Commission Order issued on May 1, 1978. Weyerhaeuser Company, Inc., filed Motion for Intervention on April 25, 1978, which Motion was allowed on May 1, 1978. Thereafter, on May 8, 1978, Motions for Leave to Intervene were filed on behalf of W.R. Grace and Company, Abbott Laboratories, and Schlage Lock Company, which Interventions were allowed by Commission Order issued on May 10, 1978.

Between the time of the Commission's setting this matter for hearing and the actual beginning of public hearings, several Motions were filed by various parties concerning discovery, production of documents, extensions of time to file testimony and other procedural matters. Such Motions and the Commission's Orders in response thereto are reflected in the Clerk's official files of this proceeding.

The matter came on for hearing as scheduled in the Commission's Order Setting Hearing. Three public witnesses appeared at the Hearing in Williamston to object to Vepco's proposed rates as being unduly and unjustifiably high. These witnesses, customers of Vepco, testified that Vepco's rates are already much higher than neighboring utilities and that it would be extremely hard for customers to pay the proposed increased rates.

At the hearing Vepco presented the testimony of the following witnesses: Stanley Ragone, President of Vepco, testified as to the reasons for the proposed rate increase, Vepco's construction program, rate of return, and addition of the North Anna Unit No. 1 nuclear generating station to the rate base; W.L. Proffitt, Senior Vice President of Vepco, testified as to Vepco's construction program, power reliability, forecast, reserve margins, and disposal of spent nuclear fuel; O. James Peterson III, Vice President and Treasurer and Chief Financial Officer of Vepco, testified as to financing capital structure, coverage of fixed charges, and cost of capital; B.D. Johnson, Vice President and Controller of Vepco, testified as to accounting, revenue, and expense adjustments; James C. Wheat, Jr., Chairman of the Board of Wheat First Securities, Inc., testified concerning the general attitude of the investment community; John D. Russell, Executive Vice President of Associated Utility Services, Inc., testified as to replacement cost and fair value; Henry H. Dunston, Jr., Manager - Cost Analysis for Vepco, testified as to cost of service studies and jurisdictional allocation; Howard M. Wilson, Jr., Manager - Rates of Vepco, testified as to rate design; and Dr. Willard T. Carleton, Professor of Business Administration at the University of North Carolina at Chapel Hill, testified as to rate of return and cost of capital.

Vepco also presented the rebuttal testimony of Howard H. Wilson, Jr., B.D. Johnson, W.L. Proffitt, and Dr. Willard T. Carleton. In addition, at a further hearing held on June 19, 1978, Vepco presented additional witnesses as follows: W.L. Proffitt, Senior Vice President, testifed as to the date North Anna Unit No. 1 went into commercial operation; B.D. Johnson testified concerning commercial and precommercial operation of North Anna Unit No. 1 and an adjustment to rate base based on displacement fuel cost for the energy produced at North Anna Unit No. 1 during the precommercial operations; and T.W. Puckett, Director - Rates and Applications for Vepco, testified concerning the rates and implementation of fuel adjustment clauses and the effect of the Commission's Order in Docket No. E-22, Sub 216.

Weyerhaeuser Company offered the testimony of Frank R. Lanou, Jr., Manager, Economics Department of CH2M Hill, Inc. Mr. Lanou presented testimony on the proposed rates for the large general service customers, Schedule 6, as well as those Vepco had submitted in compliance with the Order in Docket No. E-100, Sub 21.

The Public Staff presented the testimony of the following: J. Reed Bumgarner, Utilities Engineer for the Public Staff, testified as to jurisdictional allocation and growth factors including expenses, revenues and kilowatt-hours; William E. Carter, Jr., Assistant Director of the Public Staff Accounting Division, testified as to proper treatment to be given to the Job Development Credit (JDC); J. Craig Stevens, Director of the Consumer Services Division of the Public Staff, testified as to the volume and overview of the complaints which the Consumer Services Division received from Vepco's customers; N. Edward Tucker, Utilities Engineer for the Public Staff, testified as to rate design; Dennis Nightingale, Utilities Engineer for the Public Staff, testified as to the adequacy of generation facilities (effect of recent forecast), the cost and impropriety of the cancellation of Surry Units No. 3 and No. 4, and the excessive cost of North Anna Unit No. 1; Andrew W. Williams, Director of the Public Staff's Electric Section, testified as to fuel cost, fuel cost in base rates, and the throwaway fuel cycle; Bobby C. Branch, Public Staff Accountant, testified as to test-period original cost net investment, revenues, expenses, and returns on the original cost net investment, and common equity under Vepco's present and proposed rates; and Dr. John W. Wilson, President of J.W. Wilson and Associates, a consulting firm, testified as to rate of return and cost of capital.

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 services 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, 1977. Vepco is seeking an increase in its rates and charges to North Carolina retail customers of approximately $13.2 million based upon operations in the test year.

3. That the allocation factors derived from Vepco's actual operations for the 12-month period ended June 30, 1977, 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 electric service to its retail customers in North Carolina is $190,768,000. The reasonable accumulated provision for depreciation and amortization of $40,124,000, cost-free capital in the amount of $2,698,000 and customer advances in the amount of $212,000 should be deducted in determining the reasonable original cost net investment of $147,734,000.

5. That the reasonable allowance for working capital is $10,578,000.

6. That the reasonable replacement cost less depreciation of Vepco's plant used and useful in providing retail electric service in North Carolina is $282,461,000.

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 75% weighting to the reasonable original cost less depreciation of Vepco's plant in service and a 25% weighting to the depreciated replacement cost of Vepco's utility plant. By this method, using the depreciated original cost of $150,644,000 and the depreciated replacement cost of $282,461,000 and deducting cost-free capital and customer advances in the amount of $2,910,000, the Commission finds that the fair value of Vepco's utility plant devoted to retail electric service in North Carolina is $180,688,000. This fair value includes a reasonable fair value increment of $32,954,000.

8. That the fair value of Vepco's plant in service to its customers within the State of North Carolina of $180,688,000 plus a reasonable allowance for working capital of $10,578,000 yields a reasonable fair value of Vepco's

property in service to North Carolina customers of $1911,266,000.

9. That Vepco's approximate gross revenues for the test year, after accounting and pro forma adjustments, are $60,584,000 under the present rates and, after giving effect to the Company's proposed rates, are $73,820,000.

10. That the level of test year operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $50,697,000 which includes an amount of $6,215,000 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 with its present construction program is 7.78% which requires additional annual revenues from North Carolina retail customers of $10,805,000 based upon the historical test year (12 months ended June 30, 1977) 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 7.67%. 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 after providing the Commission with plans for a firm construction program which will provide sufficient operating reserves in the future to assure the customers of North Carolina good service is 7.92%. This rate of return would require an additional increase of $583,000 in the approved gross revenue increase of $10,805,000 based upon the historical test year level of operations. That in the event Vepco does not present this Commission with an acceptable construction program within one year, the amortization of the abandoned project cost will be disallowed and rates will be reduced by the amount of $303,000 in annual gross revenues.

12. The unamortized JDC should earn the overall rate of return.

13. That Vepco's fuel procurement activities and practices are reasonable and are in accordance with similar practices previously reviewed by this Commission.

14. 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 only the actual initial cost of nuclear fuel based on the adjusted test year cost levels which is appropriate for use in this proceeding, is 1.284¢/Kwh

15. That estimates for the cost of disposal of nuclear plant wastes (spent fuel) should be excluded from fuel cost adjustment proceedings pursuant to G.S. 62-134(e) and

incorporated as a fixed component of the basic rate at a level of 0.107¢/Kwh plus associated gross receipts taxes.

16. That the rate schedules approved herein are designed to produce total revenues of $71,389,000 which is the level of annual revenues required to produce the approved overall rate of return on the adjusted test year operations; for the purposes of rate design, this total revenue level does not and should not include an adjustment to reflect the mismatch of fuel expenses and fuel clause revenues occurring from the operation of the fuel adjustment proceedings under G.S. 62-134(e) during the test period.

17. That the proper and appropriate approved fuel charge to be applied to the basic rates approved herein during the September billing month is a charge of 0.129¢ per kilowatt-hour sales.

18. 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 charge should be recomputed to reflect the level of overall return approved herein.

19. That the rate structures approved herein for each rate classification will produce relative levels of return based on an allocation of embedded costs which generally reduce the existing variations in rates of return between rate classes, with one exception, and, thus, are not unreasonably discriminatory.

20. That the rate of return produced by the proposed outdoor lighting schedule based upon the embedded cost study varies greatly from the average rate of return; however, this variation can be explained by the evidence and, thus, is not found to be unreasonable.

21. That the design of the rate schedules proposed by the Company shall be slightly modified as set forth in the evidence and the Commission's conclusions for this finding of fact, and the modified schedules are found to be just and reasonable.

22. That the overall quality of electric service provided by Vepco to its North Carolina retail customers is adequate.

23. The Commission finds that Vepco should commit its resources today towards constructing new generating capacity for the mid- to late-1980's and that this new capacity should be a coal-fired unit due to the physical impossibility of installing the most economical base load generating facility.

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 February 7, 1978, as the 12-month period ended June 30, 1977. Vepco filed its application data in accordance with this test year period.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

In his 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 year period determined by this Commission. This allocation study was for the most part uncontroverted.

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 Branch concerning the original cost investment. The following chart summarizes the amount which each of these witnesses contends is proper for North Carolina retail operations:

(000's Omitted)

Item	Company Witness Johnson	Public Staff Witness Branch	
		As Filed	As Adjusted
Electric plant in service	$190,768	$188,400	$188,400
Less: Accumulated depreciation	37,147	37,058	37,058
Amortization of nuclear fuel assemblies	3,029	3,939	3,005
Cost-free capital	-	3,431	3,431
Net electric plant in service	$150,592	$143,972	$144,906
Unamortized abandoned project cost less Federal income tax deferral	1,515	-	-
Original cost of investment in rate-base components	$152,107	$143,972	$144,906

As indicated in the above chart, the witnesses do not agree as to the amount which is net electric plant in service nor as to the components which should be used to

determine the original cost of investment in "rate-base" components.

The first difference in arriving at net plant in service is the amount properly includable as gross electric plant in service. Company witness Johnson testified that the gross electric plant in service is $190,768,000 while Public Staff witnesses Branch and Nightingale testified that the amount is $188,400,000, or a difference of $2,368,000. The $2,368,000 is shown as follows:

Item	Company Witness Johnson (a)	Public Staff Witness Branch (b)
Total cost of North Anna Unit No. 1	$780,543,000	$766,937,000
Less: Public Staff adjustments:	-	-
(1) Cost of Spray pump modifications	-	(1,347,000)
(2) AFUDC capitalized from January 1978 to April 1978	-	(11,256,000)
(3) Common costs including AFUDC	-	(25,714,000)
Net cost of North Anna Unit No. 1	$780,543,000	$728,620,000
N.C. retail allocation factor	4.3965%	4.3965%
N.C. retail amount	$ 34,317,000	$ 32,034,000
Nuclear fuel	42,296,000	42,237,000
N.C. retail allocation factor	4.8728%	4.8728%
N.C. retail amount	$ 2,061,000	$ 2,058,000
Total N.C. retail cost of North Anna Unit No. 1 including nuclear fuel	$ 36,378,000	$ 34,092,000
Elimination of common costs of Surry Units Nos. 1 and 2	-	(
Total after elimination of common costs	$ 36,378,000	$ 34,010,000
Difference	$2,368,000	

The first difference the Commission will discuss is the proper amount includable for the addition of North Anna Unit No. 1 to the rate base.

The Commission heard testimony from Company witnesses Ragone, Proffitt, and Johnson and Public Staff witness Nightingale concerning the cost of North Anna Unit No. 1. On May 16, 1978, Mr. Ragone testified that the estimated cost of North Anna Unit No. 1 had increased from about $764 million to around $780 million. Mr. Johnson in his

testimony of June 19, 1978, indicated that the current estimated cost of completion for North Anna Unit No. 1 was $780,543,000. He further stated that he did not expect changes in this cost estimate to be significant. Mr. Nightingale of the Public Staff questioned the Company's estimated cost of North Anna Unit No. 1. His area of concern dealt with (1) the delay in the commercial operation date of North Anna and (2) the inclusion of North Anna plant site common facility cost (i.e., facilities that will also benefit future North Anna Units Nos. 2-4) with North Anna Unit No. 1.

Mr. Nightingale reported to the Commission that the first North Anna unit was scheduled for commercial operation in August 1977, but due to several problems this unit was rescheduled for January 1978 and then April 1978. According to Mr. Johnson this unit was eventually declared commercial on June 6, 1978. The record is undisputed that Vepco experienced several equipment problems: integrated circuits, pipe design, and improper flow rate for spray pumps during the summer of 1977. Due to allegations against Vepco's operations at the North Anna plant, the Nuclear Regulatory Commission (NRC) staff and Vepco representatives met in November 1977 and recommended that the Atomic Safety and Licensing Board (ASLB) hold a hearing in December 1977 on Vepco's reporting procedures. In January the ASLB issued an order reaffirming its opinion that Vepco was qualified to construct and operate the North Anna facility. Vepco was also allowed a limited operations permit primarily for the testing of North Anna Unit No. 1. The Public Staff contends, through Mr. Nightingale's testimony, that it would be unfair for Vepco's customers to be responsible for costs associated with vendor related problems. These costs as outlined in Mr. Nightingale's testimony included the cost of modifications to correct design errors and accumulated allowance for funds used during construction for the months of delay in commercial operation. According to Mr. Nightingale's testimony initial talks with Vepco indicated that each month Unit No. 1 was delayed the allowance for funds used during construction increased the original cost approximately $3.5 million. Mr. Nightingale specifically indicated the $1,347,000 cost of modifying spray pumps should not be allowed in the cost of North Anna Unit No. 1. He further stated that it may not have been the only problem resulting in delays in commercial operation for North Anna Unit No. 1 but it was the one the Public Staff could pinpoint. In the summary contained in his testimony, Mr. Nightingale estimated that the spray pump modifications and increased allowance for funds used during construction between January 1978 and April 1978 would total approximately $12.6 million.

Mr. Proffitt of Virginia Electric and Power Company testified on rebuttal that there were many causes for the delay from August 1977 to May 1978 and that it was impossible to identify any portion of the delay that could be attributable to a single cause. He did not deny,

however, that the Company had experienced a problem with the spray pump and other equipment. He further stated that even though the spray pump modification was the main item that Vepco's staff and consultants were working on, there were other items still underway during the last phases of construction. The Company's evidence also showed that NRC requirements might have been satisfied without improvements to the pumps, but that extensive tests would have been required which could have delayed issuance of the NRC operating permit even longer than the improvement work that was performed.

From the evidence presented in this proceeding, North Anna Unit No. 1, previously scheduled for commercial operation in August 1977, was placed in commercial operation on June 6, 1978, at a cost of approximately $780,543,000. The Commission concludes that this original cost should not be reduced by the cost of the spray pump modifications or the AFUDC capitalized from January 1978 to April 1978. The Commission is of the opinion that it would be improper to penalize the Company for unavoidable delays and costs associated with the North Anna Unit.

The second area of concern over the cost of North Anna Unit No. 1 involved the inclusion of costs for facilities common to all units at the North Anna plant site with the cost of North Anna Unit No. 1. This issue also related to Surry Units No. 1 and No. 2. The Public Staff proposed to eliminate from rate base 50% of the cost of facilities they regarded as common to both operating and future units at the North Anna and Surry sites. The North Anna reduction would be about $25.69 million (about $1.13 million allocated to North Carolina) and $1,864,517 (about $82,000 allocated to North Carolina) at Surry.

The Commission is of the opinion that the Public Staff's concerns over including costs of common facilities for a multiunit plant with the first unit are valid and deserve serious consideration. However, from the evidence presented in this docket there does not appear sufficient detail to properly allocate these costs among the units at the North Anna plant. As Vepco has indicated in Mr. Proffitt's rebuttal testimony and its cross-examination of Mr. Nightingale, most if not all of the major items listed in Exhibit DJN-2 were required for Unit No. 1. It would then appear that changes made in the cost of North Anna Unit No. 1 due to allocation of common facility costs would be minimal. Based on the evidence presented, the Commission concludes that no adjustment should be made for exclusion of common facility costs in the cost of North Anna Unit No. 1 or Surry Units No. 1 and No. 2.

The Commission concludes that the appropriate level of gross North Carolina retail electric plant in service is $190,768,000 which is the amount as determined by Company witness Johnson.

The next difference the Commission will discuss is accumulated depreciation. Company witness Johnson testified that the proper level of accumulated depreciation is $37,147,000, while Public Staff witness Branch testified that the appropriate amount is $37,058,000, or a difference of $89,000. The $89,000 results from the difference in depreciation expense claimed by each witness as discussed under Evidence and Conclusions for Finding of Fact No. 10.

The Commission concludes that the appropriate level of accumulated depreciation is $37,095,000 consisting of the $37,147,000 as testified to by witness Johnson less the $52,000 adjustment to annual depreciation on Surry steam generators which was disallowed by the Commission under Evidence and Conclusions for Finding of Fact No. 10 as proposed by Public Staff witness Bumgarner.

The Commission will now discuss the difference shown for amortization of nuclear fuel assemblies. Company witness Johnson testified that the appropriate amount is $3,029,000 while Public Staff witness Branch in his prefiled testimony testified that the appropriate amount is $3,939,000. Public Staff witness Williams made an adjustment decreasing nuclear fuel expense for the throwaway fuel cycle from $1,974,000 to $1,040,000, or a decrease of $934,000. That accounts for the change from $3,939,000 as originally filed to $3,005,000 as adjusted in column (d) above. When nuclear fuel expense was decreased by $934,000 by Mr. Williams, Mr. Branch's amount of amortization of nuclear fuel assemblies would likewise decrease by $934,000. Under Evidence and Conclusions for Finding of Fact No. 10, the Commission concluded that the nuclear fuel expense as testified to by Company witness Johnson was appropriate; therefore, the Commission concludes that the appropriate amount for the amortization of nuclear fuel assemblies is $3,029,000 as shown in column (b) above.

The Commission will now discuss the items of cost-free capital as deducted by witness Branch. The cost-free capital of $3,431,000 which Mr. Branch deducted consisted of deferred income taxes of $2,698,000, the provision for levelizing the payment of leased turbines of $686,000, and an insurance reserve of $47,000. These balances were as of December 31, 1977. Mr. Branch testified that Mr. Johnson included most of these items of cost-free capital in the capital structure at zero cost as of June 30, 1977.

Mr. Branch testified that if he had included this cost-free capital in the capital structure at zero cost, as did Mr. Johnson, instead of deducting it in determining original cost net investment, it would have had the effect of assigning a portion of this cost-free capital to construction work in progress and other nonrate-base assets - those assets related to nonutility property and subsidiary companies - and that under Company witness Johnson's method, the ratepayers do not receive currently the full benefit of capital which they have supplied the

Company. By deducting these items from the rate base, the ratepayers will receive the full benefit now of the capital which they have supplied the Company. Witness Branch testified that the unamortized investment tax credit included in his cost-free capital was realized under the Revenue Act of 1962, which provided for a reduction in the income tax liability of utilities to the extent of 3% of the cost of qualifying property acquired during a taxable year and that this Commission issued a general rule-making Order which permitted utilities to follow what is commonly referred to as a "Normalization Accounting" procedure for investment tax credits. Under this accounting procedure, the Company records a Federal income tax expense greater than the amount of tax actually paid. This difference between book income taxes and actual income taxes is recorded as a corresponding credit in a balance sheet account - unamortized investment tax credits. This investment tax credit related to the Revenue Act of 1962 is deferred and amortized as a reduction of Federal income tax expense over an appropriate period of time. Witness Branch stated that the balance of this unamortized investment tax credit is a source of cost-free capital which has been provided by the ratepayers and as such should be deducted in arriving at the net investment in plant in service.

Public Staff witness Branch further testified that accumulated deferred income taxes result from normalizing the tax effect of accelerated depreciation and other timing differences and, again, by use of the Normalization Accounting procedure, the Company reflects, for financial and rate-making purposes, a greater Federal income tax expense than it actually incurs. For example, the Company uses an accelerated method of depreciation to calculate the depreciation deduction in determining its actual income tax liability but calculates the depreciation deduction on the straight-line method for rate-making purposes. Thus, the income tax expense for rate-making purposes is calculated without giving effect to the accelerated depreciation. The excess of the normalized tax expense based on straight-line depreciation over the actual tax liability based on accelerated depreciation is recorded in the account entitled "accumulated deferred income taxes - accelerated depreciation." Until such time as the actual tax liability based on accelerated depreciation exceeds the book income tax expense based on straight-line depreciation, the Company has use of this cost-free capital. Witness Branch stated that, in substance, the ratepayer has paid in through the rate structure a cost which the Company has not incurred and will not incur until such time as straight-line book depreciation exceeds tax depreciation. He stated that accumulated deferred income taxes represent a source of cost-free capital and, as such, should be deducted in calculating the original cost net investment.

The Commission is of the opinion that the accumulated deferred income taxes and the pre-1971 investment tax credits should be excluded from the Company's investment for

the purpose of determining the reasonable original cost net investment in electric plant in service. The ratepayers have provided these funds to the Company in the form of electric rates; therefore, the amount of $2,698,000 should be deducted in determining the reasonable original cost net investment.

Public Staff witness Branch testified that he also included in cost-free capital the levelizing payment of leased turbines and the insurance reserve because they represent customer supplied funds. The levelizing payment of the leased turbines arises from the Company's accounting procedure of levelizing payments of the "lease" amounts over the 20-year period of the sale and leaseback contract on gas turbine generators. During the first 10-year period only interest is remitted semiannually with interest and principal to be paid semiannually during the last 10 years. Thus, under the terms of the lease, during the first 10 years of the lease the Company charges to expense an amount greater than its actual payment, and during the last 10 years of the lease, the Company charges to expense an amount less than its actual payments under the terms of the lease. This levelizing procedure of expensing the same amount each period results in accumulation of a deferred credit or cost-free capital during the first 10 years of the contract for that amount expensed in excess of the lease payment requirement. Accordingly, witness Branch stated that the ratepayers, having provided this cost-free capital, should receive full benefit currently by deducting cost-free capital in arriving at the original cost net investment.

The Commission concludes that, since the levelizing payment of the leased turbines arises from a contract which management negotiated and the amount of the cost-free capital will be reduced during the last years of the contract, this cost-free capital should be included in the capital structure at zero cost.

The insurance reserve is an item of cost-free capital which Public Staff witness Branch included and which was not recognized as being cost-free capital by witness Johnson. Company witness Johnson testified in this case and all previous rate cases that insurance expense had been adjusted to the actual amount; therefore, the insurance reserve has not been provided by the ratepayers.

The Commision finds that the Company has reduced insurance expense in this and prior rate cases to the actual amount so that the ratepayers have not paid rates to cover insurance expense greater than the actual insurance expense. The Commission concludes that the insurance reserve of $47,000 is not an item of cost-free capital in this case.

The Public Staff included customer advances for construction in the amount of $212,000 as a reduction of the working capital allowance. The Commission finds that these funds were provided by Vepco's customers and should be

deducted from plant in service in order that the ratepayers will not have to pay a return on these funds. This treatment will have the same effect as reducing the working capital allowance by the amount of the customer advances.

The final item that the Commission will discuss is the unamortized abandoned project cost less Federal income tax deferral of $1,515,000. This amount was included as a rate base item by Company witness Johnson but not by Public Staff witness Branch.

Both Mr. Ragone and Mr. Proffitt testified that, in their opinion, the decision to construct Surry Units No. 3 and No. 4 and the decision to cancel Surry Units No. 3 and No. 4 were both prudent business decisions. The major factors utilized in determining the appropriateness of the Surry cancellation were: lower estimated growth rates than previously forecasted, cost of continuing construction, and financial difficulties. As originally estimated these two units were to be placed into commercial operation in 1980 and 1981 at a total cost of $608 million. At the time of Vepco's cancellation, these units were estimated to cost $1.8 billion with in-service dates of 1986 and 1987. Vepco's current estimate for these units, based on current NRC requirements and other cost increases, is $2.8 billion for the 1986 and 1987 in-service dates. As of February Vepco had about $65.7 million invested in Surry Units No. 3 and No. 4, plus the possibility of an additional $83 million. In addition, Vepco has expended about $7 million in advance payments for nuclear fuel. According to Mr. Proffitt these units had gone through initial licensing procedures with NRC before their cancellation.

Mr. Peterson testified that because of Vepco's current financial condition it would be virtually impossible to obtain the required sums to finance the four nuclear units at North Anna, two nuclear units with associated fuel at Surry, and the Bath County project. Vepco decided to decrease its investment where the capital outlay was the smallest and the need most remote. In March 1977 Vepco cancelled Surry Units No. 3 and No. 4.

Mr. Proffitt in his February 1, 1978, prefiled testimony stated that Vepco has made comparative economic evaluations of coal versus nuclear under several sets of assumptions. Further, the assumption which Vepco regards as the most reasonable indicated that nuclear would be the economic choice over the life of a large generating unit.

Based upon the Commission's 1977 Report of Analysis and Plan: Future Requirements for Electricity Service to North Carolina and the Public Staff's Analysis of Long Range Needs for Electric Generating Facilities in North Carolina - 1978, Mr. Nightingale testified that over its lifetime a nuclear facility is the most economical type of base load generating facility that an electric utility could construct. He further testified that both reports included Surry Units

No. 3 and No. 4 in their proposed construction schedules for Vepco. Mr. Nightingale incorporated in his testimony the results of recent studies performed by Vepco comparing coal and nuclear units, impact of new regulations on capital costs, and cost comparisons between coal and nuclear with extended nuclear construction. The results of these analyses generally indicated that nuclear units were the lowest cost energy producers. Vepco's study on impacts of new regulations on capital cost indicated Vepco assumed a 9% annual increase, which was basically the average between 1973-1976, while assuming 7% increase for future coal, which was approximately the average between 1973-1976 for coal units not requiring sulfur removal equipment. Mr. Nightingale questioned this assumption since it currently appears that future coal units will be required to have some type of sulfur removal system. The 1973-1976 average increase in cost due to regulation changes for a coal unit with sulfur removal equipment was 12.7%. Vepco's study comparing the energy cost of a coal unit to a nuclear unit indicated that if these units were placed into commercial operation the energy cost from a coal unit would be 35% greater than that from the nuclear unit. Even with a three-year delay in commercial operation in the nuclear unit, the energy cost from a coal unit would be 4% greater than that from nuclear unit.

Mr. Nightingale also referred to Vepco's studies comparing revenue requirements from commercial operation in 1987 and 1988 discounted to 1978 dollars comparing nuclear and coal units. The grand total present worth of revenue requirements for a coal unit was over 34% greater than a nuclear unit's revenue requirement in 1978 dollars. Mr. Nightingale further testified that the addition of nuclear capacity would improve the economic utilization of Vepco's proposed Bath County Pumped Storage Project. This was not contested by Vepco.

The Commission is aware that when a company looks at installing new facilities sometime in the future economic analyses must be performed in order to determine which new facility would result in the minimum cost. In the testimony before this Commission it was indicated that over the lifetime of a generating unit a nuclear unit would provide the lowest cost energy over a coal unit. The Commission feels that this is a correct analysis. Also, Vepco's own uncontested study indicates that nuclear units coming into service in 1987 and 1988 have a lower grand total present worth of revenue requirements than coal units by a significant amount.

The Commission recognizes that nuclear units are more capital intensive, requiring greater financing at an earlier date thus placing a heavier financial burden on the utility than would a similar sized coal facility. However, it is also a fact that as of July 1, 1979, utilities operating in North Carolina will be permitted to include construction work in progress in their rate base. The Commission is also

aware that Vepco is allowed construction work in progress in its rate base in Virginia. It is the Commission's opinion that this should lessen the impact of any financial burden associated with new plant additions.

The Commission has considered all the evidence presented on this issue in this proceeding and finds that the ratepayers should not bear the full burden of the cost of the abandonment of the Surry nuclear units. The Commission finds that the unamortized abandoned project cost less Federal income tax deferral of $1,515,000 should not be included in the rate base and the Company should not be allowed to earn a return on this cost. However, the Commission will include in operating expenses the amortization of the project cost in the amount of $303,000 for at least one year, and rates will be set to recover this cost from the ratepayer over the 10-year amortization period. If at the end of one year, however, the Company has not come back before this Commission to present a firm construction schedule to which the Company is committed and which will provide the ratepayers of this State assurance of adequate operating plant reserves for the future or otherwise shown cause why the amortization should be continued for another year, then rates will be reduced by the gross amount ($303,000) to reflect exclusion of the amortization of the abandoned plant site which has been included in the cost of service in this proceeding.

From all the evidence presented the Commission concludes that the reasonable original cost net investment less cost-free capital should be calculated as follows:

(000's Omitted)

Electric plant in service	$190,768
Less: Accumulated depreciation	37,095
Amortization of nuclear fuel	3,029
Net electric plant in service	150,644
Less: Accumulated deferred income taxes	2,698
Customer advances	212
Original cost net investment	$147,734

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Company witness Johnson and Public Staff witness Branch each presented a different amount for the working capital allowance as shown by the chart below:

(000's Omitted)

	Company Witness Johnson	Public Staff Witness Branch
Materials and supplies	$ 6,295	$ 6,295
Investment in leased nuclear fuel	2	2
Prepayments	163	163
Minimum bank balances	658	658
Average tax accruals	(811)	(690)
Customer deposits	-	(338)
Customer advances for construction	-	(212)
Cash	4,540	4,334*
Total	$10,847	$10,212

*1/8 of total O&M expenses of $35,063,000 less purchased power expense of $387,000.

Each witness used the formula method in developing the allowance for working capital as shown in the above chart; however, the witnesses did not use the exact same items in calculating the working capital allowance.

The difference between the total amounts shown results from the witnesses' using different test year levels of operation and maintenance expenses less purchased power - the basis of the 45-day cash allowance; from witness Branch's deducting customer deposits and customer advances in his calculation of working capital and Company witness Johnson's omitting these items in his calculation; and from witness Branch's using the unadjusted average tax accruals per the application, instead of accrued taxes being adjusted for the effect of accounting and pro forma adjustments as was done by Mr. Johnson.

The Commission finds that the customer deposits in the amount of $338,000 proposed by Public Staff witness Branch are properly deductible in determining the allowance for working capital in this case. These funds were provided by Vepco's customers and should be deducted in order that the ratepayers will not have to pay a return on these funds. The interest expense on the customer deposits will be included as an operating expense. The Commission has previously discussed the treatment of customer advances for construction in Evidence and Conclusions for Finding of Fact No. 4 and will not repeat those conclusions here.

The Commission finds that the book amount of average tax accruals in the amount of $690,000 should be deducted. The determination of the working capital allowance is only an approximation, and adjusting tax accruals for the effect of accounting and pro forma adjustments is an undue refinement. The Commission finds the allowance for cash to be $4,488,000 based upon 1/8 of the approved maintenance and operating

expenses excluding purchased power arrived at and discussed in Evidence and Conclusions for Finding of Fact No. 10.

Based on all the testimony and evidence in this case, the Commission concludes that a working capital allowance of $10,578,000 is the appropriate amount to be used in this proceeding, consisting of materials and supplies of $6,295,000, investment in leased nuclear fuel of $2,000, prepayments of $163,000, minimum bank balances of $658,000, cash of $4,488,000 less average tax accruals of $690,000, and customer deposits of $338,000.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6, 7, AND 8

The only witness who testified as to the reasonable replacement cost less depreciation of the Company's plant used and useful in providing retail service in North Carolina was John D. Russell, who testified on behalf of the Company. He found this cost to be $246,916,115 based on plant in service at the end of the test year. In addition, to include North Anna Unit No. 1 and other minor plant additions and adjustments in the fair value rate base, the net original cost of that unit and those plant additions should be added to the $246,916,000 net replacement cost. Based on Mr. Johnson's Exhibit No. BDJ-2, Schedule 1, page 5 and Exhibit No. BDJ-6 which use the most recent cost figures, $35,493,000 should be added. Also, $52,000 should be restored to the rate base because of the Commission's approval of the Public Staff's depreciation expense reduction discussed with respect to Finding of Fact No. 10.

The Commission therefore concludes that the reasonable replacement cost less depreciation of the Company's plant used and useful in providing retail electric service in North Carolina is $282,461,000.

Having determined the appropriate original cost less depreciation to be $150,644,000 before consideration of cost-free capital and customer advances, and the reasonable estimate of net replacement cost of that plant to be $282,461,000, the Commission must determine the fair value of Vepco's net plant in service.

The Commission recognizes that witness Johnson used a 2/3 weighting to net original cost and a 1/3 weighting to net replacement cost in his testimony and exhibits. He, however, contended that a 50/50 ratio was more appropriate. The Commission in arriving at its fair value recognizes that Vepco's North Anna Unit No. 1 is a new unit and has just recently been declared commercial and is being placed in the rate base for the first time.

The Commission concludes that a 75% weighting for net original cost and a 25% weighting for net replacement cost is appropriate for determination of fair value under all the circumstances in this case. By weighting the net original

cost of $150,644,000 by a 75% factor and the net replacement cost of $282,461,000 by a 25% factor, the fair value of Vepco's utility plant in North Carolina is $183,598,000.

The fair value of Vepco's plant in service to its customers in North Carolina of $183,598,000 plus the reasonable allowance for working capital of $10,578,000 less cost-free capital of $2,698,000 and customer advances for construction of $212,000 yields a reasonable fair value of Vepco's property in service to North Carolina customers of $191,266,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witnesses Johnson and Wilson and Public Staff witnesses Williams, Tucker, Branch, and Bumgarner presented testimony and exhibits concerning operating revenues. Witnesses Johnson and Branch presented the appropriate level of operating revenues after accounting and pro forma adjustments. This revenue before proposed rate increase as claimed by each witness is shown in the following summary:

(000's Omitted)

		Public Staff Witness Branch	
	Company (a)	As Filed (b)	As Adjusted (c)
Sales of electricity	$60,043	$60,427	$59,353
Other operating revenue	259	259	259
Total operating revenue	$60,302	$60,686	$59,612

Originally, there was a $225,000 difference between the revenues as testified to by witnesses Johnson and Branch as shown on Branch's Exhibit 1, Schedule 3-1.

Witness Johnson filed supplemental testimony and exhibits decreasing revenues by $159,000, consisting of a decrease of $320,000 to reflect a revision to his previous adjustment for the throwaway fuel cycle and a $161,000 increase to reflect a revision to his previous adjustment to pro forma North Anna Unit No. 1 in test period operations. Also, Public Staff witnesses Williams and Bumgarner made adjustments to revenues as originally filed by the Public Staff. After these adjustments, the revenues, as presented by Mr. Johnson, are $690,000 greater than the amount presented by the Public Staff as shown below:

Item No.	Item	Company (a)	Public Staff (b)	Public Staff Increase (Decrease) (c)
1.	Adjustment(s) to include North Anna and Surry Nuclear Station at annualized capacity factors	$(4,047)	$(4,686)	$(639)
2.	Adjustment(s) to include throwaway fuel cycle	1,069	736	(333)
3.	Adjustment(s) to increase revenue due to customer growth and increased usage	1,695	1,836	141
4.	Adjustment(s) to increase revenue to include known changes through 12-31-77	1,695	1,836	141
5.	Total	$ 412	$ (278)	$(690)

The first difference shown in the table above is in the amount of the adjustments made by the witnesses for the operation of the North Anna and Surry nuclear units. The Public Staff and the Company agreed as to the adjustments needed to include North Anna in operations for the test year but disagreed with respect to the Surry units. Witness Williams made an adjustment reducing revenues by $639,000 to proform the Surry units, which operated at a 54.1% capacity level during the test year, to a 65% annual capacity level.

The proposed 65% level is greater than the Commission's 60% capacity guideline adopted in Docket No. E-22, Sub 216 (Part 2), and greater than the national average for operation of nuclear units. Mr. Williams' proposed 65% level is also greater than the capacity level experienced by the Surry nuclear units over their life. (Tr. Vol. VIII, pp. 77, 146-150.) Nothing in the record indicates that Vepco's operation of the Surry units was other than reasonable and prudent or that a higher capacity factor should have been achieved. The Commission finds that there is no justification for proforming the Surry units into the test year at a capacity level greater than that actually experienced.

The second adjustment concerns the level of expenses and, therefore, revenues which are included for the permanent storage of spent nuclear fuel. The level of expense included by both the Company and the Public Staff is greater than the level of expense previously approved for reprocessing of spent nuclear fuel. Mr. Williams stated that the Public Staff does not oppose the approval of fuel

expenses based on permanent storage of spent nuclear fuel. However, Mr. Williams recommended that only $150/kgHM be used as the expense of permanent storage, thus sharing the risks of overcharging or undercharging between present and future customers.

Vepco's proposed cost of $178/kgHM was based on two recent, thorough studies by the Nuclear Auditing and Testing Company (NATCO) which were not challenged by the Public Staff on either an engineering or technical basis. The Commission is of the opinion that because current Federal government policy prohibits reprocessing, charges should be assessed accordingly. The Commission therefore concludes that the Vepco estimate of $178/kgHM is a reasonable level to be used as the cost of permanent storage of nuclear fuel. Based on these findings, the Commission concludes that the revenue adjustment included by the Company increasing gross revenues by $1,069,000 is proper.

In its original filed application, the Company increased its test period revenues by $1,694,787 to account for growth to year-end in number of customers and in increased Kwh usage per customer. Public Staff witness Bumgarner, in his direct testimony and exhibits, stated that the Company had improperly priced the growth Kwhs and made an upward adjustment to the Company's test period revenues of $294,853. Company witness H.H. Wilson, in his rebuttal testimony and exhibits, further refined the adjustment made by Public Staff witness Bumgarner by reallocating the growth kilowatt-hours priced at the summer and winter rates. This rebuttal testimony also corrected the omission of the residential water heating discount by witness Bumgarner. The total effect of these adjustments was a decrease of $154,000 in the adjustment proposed by witness Bumgarner for a net adjustment of $141,000. The above changes proposed by witness Wilson were uncontested by the Public Staff. The Commission therefore concludes that the correct and appropriate adjustment to Vepco's growth revenues is an increase of $141,000. This same adjustment must be made to correct the adjustment to increase revenues to include known changes through December 31, 1977.

Based on all the evidence presented the Commission concludes that the annualized level of operating revenues under present rates is $60,584,000 ($60,302,000 + $141,000 + $141,000).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witness Johnson and Public Staff witness Branch 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 Virginia Electric and Power Company. The following summary chart shows the amounts claimed by each witness:

(000's Omitted)

	Company Witness Johnson (a)	Public Staff Witness Branch's Exhibit 1, Schedule 3 As Filed (b)	Public Staff Witness Branch's Exhibit 1, Schedule 3 As Adjusted (c)
Operation and maintenance expenses	$36,717	$35,832	$35,063
Amortization of property loss	303	-	-
Depreciation	6,267	6,178	6,178
Operating taxes other than income	5,642	5,468	5,405
Income taxes - State and Federal	1,705	2,839	2,718
Total operating revenue deductions	$50,634	$50,317	$49,364

Column (a) of the above chart discloses the enumerated operating revenue deductions of all testimony and exhibits of witness Johnson. Column (b) of the above chart states the operating revenue deductions per the prefiled testimony of witness Branch and Column (c) reflects the effects on witness Branch's prefiled testimony and exhibits of adjustments to reflect the Public Staff's recommended nuclear fuel disposal expense allowance and to reflect corrections made by Public Staff Engineering witness Williams to his prefiled testimony and exhibits received by the Commission during the public hearing.

The first item of difference in the operating revenue deductions stated above concerns the operation and maintenance expenses. Company witness Johnson testified that the appropriate level of operation and maintenance expenses is $36,717,000; whereas Public Staff witness Branch testified that the appropriate level is $35,832,000. Witness Branch's level of operation and maintenance expenses was decreased by $769,000 consisting of adjustments of $769,000 made by Public Staff witness Williams. The adjusted level of operation and maintenance expenses for witness Branch is $35,063,000 ($35,832,000 - $769,000) as disclosed in Column (c) in the above chart. The difference of $1,654,000 in the level of operation and maintenance expenses as proposed by Company witness Johnson and the Public Staff witnesses is comprised of the following adjustments made by Public Staff witnesses:

(000's Omitted)

Item No.	Item	Amount
1.	Adjustment to decrease O&M expenses per growth adjustment	$(223)
2.	Adjustment to decrease O&M expenses for known changes through December 31, 1977	(223)
3.	Adjustment for additional decrease in fuel costs and other O&M expenses related to effecting commercial operation of North Anna Unit No. 1 with Surry Nuclear Station at 65% annual capacity factor	(834)
4.	Adjustment to decrease O&M expenses for throwaway fuel cycle	(357)
5.	Adjustment to decrease litigation expense	(33)
6.	Adjustment to include interest on customer deposits in O&M expenses	16
7.	Total	$(1,654)

The Commission will now discuss each of the preceding adjustments comprising the $1,654,000 difference in operation and maintenance expenses.

The first two items were addressed by Public Staff witness Bumgarner in his direct testimony. Witness Bumgarner testified that the Company had made an error in computing the increased fuel expense attributable to growth to year-end in Kwh usage. He stated that this error had been made by including fuel expenses which were recovered through the fuel adjustment factor in the computation of test-period energy related operating and maintenance expenses. This would have resulted in a $222,900 (approximately $223,000) decrease in the Company's adjustment of $1,016,238 for a total adjustment of $793,248. On cross-examination, Company witness B.D. Johnson testified that this was a proper adjustment. The Commission therefore concludes that a decrease to O&M expenses of $223,000 as testified to by witness Bumgarner is a proper adjustment. The Commission also concludes that O&M expenses should be decreased by $223,000 to adjust for known changes through December 31, 1977.

Public Staff witness Williams made an adjustment decreasing O&M expenses by $834,000 in order to include the

Surry Nuclear Station at a 65% capacity level. The Commission has previously found in Evidence and Conclusions for Findings of Fact No. 9 that Surry should be included at its actual capacity level for the test year. Therefore, the Commission concludes that the adjustment made by Mr. Williams to fuel expense is inappropriate.

The evidence and conclusions supporting the adjustment to operation and maintenance expense for the throwaway nuclear fuel cycle is discussed under Evidence and Conclusions for Finding of Fact No. 9. The Commission has accepted the $178/kgHM estimate requested by Vepco and, therefore, does not accept the adjustment proposed by the Public Staff.

The Public Staff proposed to reduce test year litigation expense by $33,000 because a substantial portion of that expense was incurred in connection with Vepco's suit against Westinghouse Electric Corporation for breach of uranium supply contracts. Vepco is seeking damages in excess of $500 million. The Company's evidence showed that litigation expenses in general and expenses for the Westinghouse suit in particular were higher for the 12-month periods ended December 30, 1977, and April 30, 1978, than for the 12-month test period ended June 30, 1977. Test year litigation expenses, then, are less than comparable expenses for subsequent 12-month periods. The Commission concludes that the litigation expenses included in the test year are not unreasonable and that the adjustment proposed by the Public Staff need not be made.

The sixth item of operation and maintenance expense deductions upon which the witnesses disagree is interest on customer deposits. Company witness Johnson did not include the interest on customer deposits in operating revenue deductions. Public Staff witness Branch included interest on customer deposits in the amount of $16,000 in operating revenue deductions in arriving at net operating income because he deducted the end-of-period customer deposits balance in arriving at the working capital allowance. Witness Branch calculated interest on the balance of customer deposits as of December 31, 1977. To determine the effective interest rate to apply to this balance, he divided the actual interest paid during the test year of $14,315 by the average balance of customer deposits of $303,124. This calculated effective rate of 4.723% was applied to the balance of customer deposits of $338,000 to obtain the interest deduction of $16,000.

The Commission concludes that Public Staff witness Branch's adjustment to include interest on customer deposits in the amount of $16,000 is appropriate. 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 interest at the effective rate on these end-of-period deposits as an operating expense deduction with the result

that Vepco will be allowed to recover only its cost of these customer supplied funds.

Based on all the evidence presented in the hearing and the Commission's findings on each of the above discussed Public Staff adjustments, the Commission concludes that the appropriate level of operating expenses is $36,287,000.

The second operating revenue deduction upon which the witnesses disagree is amortization of the property loss of $303,000. The Commission has previously discussed this issue in Evidence and Conclusions for Finding of Fact No. 4. The Commission concluded that for a period of one year the amortization of the property loss would be allowed. However, the amortization will be automatically disallowed and rates will be reduced by $303,000 if Vepco has not presented this Commission with an acceptable construction schedule to which it is firmly committed within one year, or otherwise shown cause why the amortization should be continued for another year.

The third operating revenue deduction upon which the witnesses disagree is annual depreciation expense. Company witness Johnson testified that the proper level of annual depreciation for the test period after supplemental adjustments of $14,000 is $6,267,000 or $89,000 more than witness Branch presented. There is only one adjustment to the Company level of depreciation expense which the Commission has to consider. All other adjustments made by the Public Staff have been decided by prior findings of fact.

In this proceeding the Company proposes to change the depreciation rate for Surry Units No. 1 and No. 2 due to the scheduled replacement of their steam generators. The Public Staff did not see the validity of this proposed adjustment at this time. The problem as outlined in Mr. Nightingale's testimony, uncontested by the Company, results from steam generator tubes being crushed by corrosion by-products.

The Commission feels that a high standard of safety and reliability should be maintained for all electric generating stations and thus agrees with Vepco that these steam generators should be replaced to further assure the integrity of these units. According to the evidence presented before the Commission, the in-place steam generators are now being utilized to provide Vepco's customers with low cost energy. Furthermore, the first scheduled replacement cannot occur until October 1978. However, Vepco proposes to change the depreciation rate on these steam generators in this case. The Commission concludes that the accounting adjustment for the early retirement of the Surry Units No. 1 and No. 2 steam generators is not applicable in this rate case since the changes will not occur until after this case has been decided.

The Commission therefore rejects the $52,000 adjustment made by the Company increasing depreciation expense and finds that the proper level of depreciation expense for use in this proceeding is $6,215,000 ($6,267,000-$52,000).

The fourth operating revenue deduction upon which the witnesses disagree is operating taxes other than income. Company witness Johnson testified that operating taxes other than income before the proposed rate increase were $5,642,000. Public Staff witness Branch testified that the proper level of operating taxes other than income should be $5,468,000. This amount would decrease by $63,000 following Public Staff adjustments decreasing revenue from the amounts contained in prefiled exhibits. Public Staff witness Williams decreased revenue by $766,000 and Public Staff witness Bumgarner decreased revenues by $280,000. The gross receipts tax effect of these adjustments is $63,000.

(000's Omitted)

Item No.	Item (a)	Company Witness Johnson (b)	Public Staff Witness Branch (c)
1.	Gross receipts & sales	$3,707	$3,667
2.	Property taxes	1,417	1,420
3.	Payroll taxes	244	244
4.	Other taxes	274	74
5.	Total	$5,642	$5,405

The adjustments proposed to revenues by Public witnesses Williams and Bumgarner are discussed under Evidence and Conclusions for Finding of Fact No. 9. The Commission has accepted adjustments totaling $123,000 to the gross revenues as originally filed by the Company. Using a tax rate of 6%, an adjustment of $7,000 must be made to the Company's original gross receipts tax level of $3,716,000 for a total of $3,723,000. The Commission concludes from the evidence presented that the proper level of gross receipts tax is $3,723,000.

Property taxes presented by Company witness Johnson of $1,417,000 are $3,000 less than that stated by Public Staff witness Branch of $1,420,000. This net difference results from the adjustment of $4,000 made by witness Branch to decrease witness Johnson's prefiled testimony. Mr. Branch's adjustment resulted from the Public Staff's adjustment to the Company's original estimated cost of North Anna Unit No. 1. Witness Johnson decreased property tax by $7,000 in his Supplemental Exhibit No. 4 (BDJ-6) to reflect the increased investment in North Anna Unit No. 1 to the level of $780,543,000 and to reflect the lower assessment ratio approved by tax authorities.

The Commission concludes that the proper level of property tax for this rate case is $1,417,000. This amount reflects both the latest estimated cost of North Anna Unit No. 1 and the lower assessment ratios approved by taxing authorities.

Payroll taxes of $244,000, as stated in the testimonies of Company witness Johnson and Public Staff witness Branch, is the proper level found by this Commission in this rate case.

Other taxes of $274,000, as adjusted by Company witness Johnson in supplemental testimony, include $200,000 for additional business and occupation tax resulting from legislation in West Virginia which increased the tax rate to $4.00 per $100 valuation from 88¢ per $100 valuation for generation exported. This new tax rate of $4.00 per $100 valuation is effective April 1, 1978, as testified to by Company witness Johnson.

The Commission concludes that the proper level of other taxes is $274,000. This level of other taxes reflects the increased business and occupation tax levied in West Virginia for the export of generation in that state and allows this increased cost of service which became effective April 1, 1978, to be covered by rates found fair by this Commission in this rate case.

The Commission concludes that the appropriate level of taxes other than income taxes is $5,658,000 consisting of gross receipts and sales taxes of $3,723,000, property taxes of $1,417,000, payroll taxes of $244,000, and other taxes of $274,000.

The fifth item of difference in operating revenue deductions stated above relates to State and Federal income taxes. Company witness Johnson testified that the appropriate level of State and Federal income taxes is $1,705,000 while Public Staff witness Branch testified that the appropriate level of State income taxes is $267,000 and the appropriate level of Federal income taxes is $2,572,000. The amounts shown above for Public Staff witness Branch do not reflect the income tax effects of adjustments made by Public Staff witnesses Williams and Bumgarner to their prefiled testimony. Although the witnesses used the exact 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 and different amounts of "Schedule M" adjustment items used by each witness. The difference in operating revenues and operating revenue deductions have been discussed and so the Commission does not deem it necessary to repeat a discussion of these differences. The level of State and Federal income taxes found proper by this Commission is different from the amounts presented by either witness in his testimony; therefore, the Commission will calculate the appropriate level of State and Federal income taxes for use in this proceeding.

The Commission concludes that the proper amount of State income tax is $196,000 and Federal income tax is $2,038,000 for total income taxes of $2,234,000. The following schedule sets forth the Commission's State and Federal income tax calculations:

Schedule of Increase or Decrease in Taxable Income Resulting from Commission's Revenues, Operating Revenue Deductions, and Interest Expense Compared to Amounts Contained in Company Witness Johnson's Prefiled Exhibits

(000's Omitted)

Item	Commission Findings (a)	Company Witness Johnson's Prefiled Exhibits (b)	Increase (Decrease) in Taxable Income (c)
1. Operating revenues	$60,584	$60,461	$ 123
2. Operating and maintenance expense	36,287	37,003	716
3. Depreciation	6,215	6,281	66
4. Property loss	303	303	-
5. Operating taxes other than income	5,658	5,458	(200)
6. Interest expense	6,379	6,573	194
7. Total (Items 2-5)	54,842	55,618	776
8. Balance	$ 5,742	$ 4,843	$ 899
9. Increase in State income tax (6% of Line 6, column (c))	-	-	$ 54
10. Increase in Federal income tax (Line 6, column (c))	-	-	$ 405

When the $54,000 is added to the $142,000 for State income tax, as contained in witness Johnson's prefiled exhibits, the resulting level of State income tax is $196,000. When the $405,000 is added to the $1,633,000 for Federal income tax, as contained in witness Johnson's prefiled exhibits, the resulting level of Federal income tax is $2,038,000.

There is one other item, charitable and educational donations, which the Commission will discuss. Although there was no direct testimony or cross-examination on this subject, Company witness Johnson deducted $10,000 (net of income taxes) of charitable and educational donations from his net operating revenues.

The Commission concludes that a charitable or educational donation is not a proper expense to include in cost of service for rate-making purposes. It is the Commission's

opinion that if Vepco chooses to make these expenditures, they should be charged to its stockholders, not its ratepayers. The ratepayers should not be required to make charitable donations through the payment of electric rates.

The Commission concludes that the annualized level of North Carolina operating revenue deductions is $50,697,000, consisting of operating expenses of $36,287,000, depreciation of $6,215,000, property loss of $303,000, other operating taxes of $5,658,000, and State and Federal income taxes of $2,234,000.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Company offered James Peterson III, Vice President, Treasurer, and Chief Financial Officer of Vepco, and Williard T. Carleton, Professor of Business Administration, University of North Carolina, and the Public Staff offered John W. Wilson of J.W. Wilson and Associates, Inc., testifying on the capital structure and cost of capital for Vepco. Mr. James Peterson III testified that the Company's overall cost of capital as of December 31, 1977, was 9.82% based on the original cost net investment. This overall cost of capital figure allowed for a return of 14% to original cost common equity which rate of return was testified to by Company witness Dr. Carleton. The Company's request was based on a capital structure consisting of 50.55% debt at a cost rate of 7.77%; 13.60% preferred and preference stock at a cost rate of 8.43%; 34.26% common equity; and 1.59% cost-free capital. The capital structure and embedded cost rates were based on the 12 months ended December 31, 1977.

Dr. Wilson testified for the Public Staff that a reasonable estimate of the cost of capital to Vepco on an original cost basis was 9.37%. This estimate was based on a capital structure consisting of 51.11% long-term debt at a cost rate of 7.81%; 14.14% preferred and preference stock at a cost rate of 8.42%; 33.54% common equity at a cost rate of 12.25%; and 1.21% short-term debt at a cost rate of 6.76%.

While there are some differences in the capital structures used by Company witness Peterson and Public Staff witness Wilson, the major difference in the Company's testimony and the Public Staff's testimony was in the area of their determination of the proper cost rate to be applied to the equity component. Dr. Carleton included seven tests in arriving at his estimate of the cost of capital for Vepco. His first test was an analysis of interest rates, in which he concluded that to the extent Vepco's equity holders view their investments as about as risky as the average A utility bond, their cost of equity is 8.47% to 8.56% with an average of 8.2%. Second, he performed an earnings price yield analysis, in which he concluded that based on this test Vepco's earnings price yield on the average was 12.2%. Third, Dr. Carleton used an infinite horizon DCF formula using the historical average dividend per share growth rate.

Dr. Carleton, based on this test of the cost of equity to Vepco, arrived at an average cost of equity of 11.06%; however, he stated that this was a downward biased estimate. Fourth, Dr. Carleton utilized an infinite horizon DCF formula using the historic average earnings per share growth rate. This method resulted in an average cost of equity to Vepco of 9.92%. Once again, he stated that this was a downward biased estimate. Fifth, he employed an infinite horizon DCF formula using an historic average growth rate of book value of equity per share. This test resulted in an implied cost of equity to Vepco on the average of 13.19%. Again, Dr. Carleton stated that this test was downward biased as far as reflecting the cost of equity to Vepco. Sixth, Dr. Carleton utilized a finite horizon DCF approach in arriving at an average cost of equity to Vepco. By utilizing this approach Dr. Carleton arrived at a 16.25% average cost of equity to Vepco. Seventh, Dr. Carleton utilized a comparison with 10 other electric utilities. Through utilizing this test Dr. Carleton arrived at a 13.15% average cost of equity for Vepco.

Dr. Carleton concluded from utilizing all of these tests that in his best judgment the 16.25% was too high and the 13.15% was too low and that 14% was both a reasonable and conservative estimate of Vepco's cost of equity capital.

Dr. Wilson based his finding that a reasonable estimate of cost of equity to Vepco was 12.25% on several analyses. First, Dr. Wilson performed a comparable earnings analysis. He compared Vepco to 100 large electric utilities. Based on this analysis he determined that the average earnings on common equity for these 100 utilities for the period 1970 to 1976 was in the 11% to 12% range; however, Dr. Wilson cautioned against relying upon this test because of the circularity problems that were inherent therein.

He then proceeded to analyze the earnings of firms and industries throughout the U.S. economy as shown in his Exhibit JW-4. He determined that these industries were earning approximately 14% during the past year, while earnings in the electric utility industry have been in the 12% range. He again cautioned that utilities which provide essential services in monopoly markets are less risky businesses than competitive unregulated businesses and, therefore, their cost of capital was less than the unregulated market. Dr. Wilson then performed a beta coefficient analysis for major utilities in determining that utilities common stocks are less risky than the market as a whole. As another check, he analyzed Value Lines' published indexes of safety, price stability, and earnings predictability for a wide variety of firms in all sectors of the economy. From this analysis he again concluded that utility investments are less risky than investments in unregulated industries. Finally, Dr. Wilson employed a DCF analysis of Vepco and the 100 large electric utilities mentioned earlier. By applying his DCF methodology to the larger group of 100 utility companies he arrived at an

unadjusted cost of common equity of 11.78%. Applying the same computational principles to Vepco alone, he produced an equity cost estimate of 9.92%. However, he stated that the 11.78% average for the comparable utility group as a whole is a more valid equity cost measurement for Vepco. Dr. Wilson, after arriving at an indicated cost of common equity capital of approximately 12% for Vepco, added a .25% allowance for market pressure and thus arrived at a 12.25% common equity capital cost for the Company.

The determination of the fair rate of return must be made with great care. Whatever return is allowed, there will be an immediate impact upon both the Company and the Company's retail ratepayers in North Carolina. The Commission has a responsibility to both of these parties. Indeed, the Commission is charged with insuring 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.

The Commission concludes that consistent with its findings on cost-free capital and JDC which were discussed in Evidence and Conclusions for Findings of Fact Nos. 4 and 12, respectively, the capital structure and cost rates for debt and preferred stock set forth below are appropriate for use in this case:

(000's Omitted)

	Amount	Ratio	Rate
Debt	$2,291,450	51.86	7.77%
Preferred stock	619,110	14.01	8.43%
Cost-free capital	14,157	.32	-0-
Common equity	1,493,521	33.81	
Total	$4,418,238	100.00	

The Commission also concludes that when the excess of the fair value of the Company's property used and useful at the end of the test over and above 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	Ratio
Debt	42.92
Preferred stock	11.60
Cost-free capital	.27
Common equity	45.21
Total	100.00

The Commission has considered carefully all the evidence presented with respect to cost of capital. The Commission has also considered Vepco's construction program and the needs which Vepco has to raise capital under its present construction plan. The Commission has expressed its concern in this Order that Vepco does not at present have a definitive construction schedule which will supply future demands in the mid- to late-1980's. The cancellation of the additional Surry nuclear units has left future capacity reserves of Vepco lower than the Commission feels adequate.

The Commission concludes that with the construction program in effect before the cancellation of the Surry nuclear units and the risk attendant with that vast construction program, the fair rate of return on fair value rate base for Vepco would be 7.92% and approximately 12.89% on book common equity. Such rate of return would be needed to compensate investors for the risk associated with that construction program. The magnitude of the Company's construction program is certainly a relevant factor in determining risk and the cost of common equity.

In March 1977 the Company cancelled plans for the additional Surry nuclear units. In its testimony the Company expressed its concern that financing of these units would place the Company in an impossible financial position. The Company also indicated that plans for a substitute construction program would be made as soon as possible. By cancelling the Surry units, and by failing to show this Commission that it now has a new construction program which will enable it to meet future demands, the Company has reduced the risk to existing and potential investors. The Commission concludes that with the reduced construction schedule and inherent reduced risk for equity investors, a return on fair value of 7.78% or 12.39% on book value common equity will enable Vepco to produce a fair profit and compete in the market for capital on reasonable terms. The Commission finds that Vepco should be allowed an increase in gross revenues of $10,805,000 based on test year operations in order to earn the 7.78% return on fair value herein allowed.

In Evidence and Conclusions for Findings of Fact Nos. 4 and 10, the Commission has called upon Vepco to come back before this Commission and present a construction schedule to which the Company is firmly committed and which will increase the Company's reserves in the 1980's and provide the ratepayers of North Carolina with reasonable assurance of continued uninterrupted service in the future. The Commission concludes that at such time as Vepco's new construction schedule is approved by this Commission and implemented by the Company, the risk to the equity holder will increase to the level present during the test period before the cancellation of the Surry nuclear units. The Commission further concludes that upon showing this Commission that the required construction program has been implemented, the Company should be allowed to increase its

rates to produce an additional $583,000 in order for the Company to be allowed the opportunity to earn the 7.92% return on fair value rate base or 12.89% return on book common equity found fair with the construction programs in effect before the cancellation of the Surry nuclear units. The Commission is of the opinion that it will be mandatory for the Company to be allowed the 7.92% return on fair value in order to attract money to support the new construction program since the risk to the equity holder will increase substantially at that time.

The Commission is of the opinion that the variation in risk associated with the dimension of the Company's construction program creates a range of reasonable returns on fair value from 7.78% to 7.92%. At the present time Vepco has reduced its construction program with the cancellation of the Surry units and thereby reduced its future reserves to a dangerously low level. As long as Vepco has not made a commitment to increase construction and to increase its operating reserves, the Company's risks are such that the 7.78% return herein allowed is adequate to attract Capital and provide the present investors with a fair return on their capital. At such time as Vepco demonstrates to this Commission that it has implemented its new construction program which will provide adequate reserves for the future, the Company's return must be increased to the high end of the range of returns in order that the Company survive.

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 224
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF FAIR VALUE RATE OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1977
(000's OMITTED)

Item	Present Rates (a)	Approved Increase (b)	After Proposed Increase (c)
Operating revenues	$60,584	$10,805	$71,389
Operating expenses:			
Operation and maintenance expenses	36,287	-	36,287
Amortization of property loss	303	-	303
Depreciation	6,215	-	6,215
Total operating expenses	42,805	-	42,805
Operating taxes - other than income:			
Payroll	244	-	244
Gross receipts & sales	3,723	648	4,371
Property	1,417	-	1,417
Other taxes	274	-	274
Total operating taxes	5,658	648	6,306
Total operating expenses and taxes other than income	48,463	648	49,111
Operating income before income taxes	12,121	10,157	22,278
State income taxes	196	609	805
Federal income taxes	2,038	4,555	6,593
Total income taxes	2,234	5,164	7,398
Net operating income	$ 9,887	$ 4,993	$14,880

SCHEDULE II
VIRGINIA ELECTRIC AND POWER COMPANY
DOCKET NO. E-22, SUB 224
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF FAIR VALUE RATE OF RETURN
TWELVE MONTHS ENDED JUNE 30, 1977
(000's OMITTED)

Item	Present Rates (a)	After Proposed Increase (b)
Investment in Electric Plant		
Electric plant in service	$190,768	$190,768
Less: Accumulated depreciation	37,095	37,095
Amortization of nuclear fuel assemblies	3,029	3,029
Cost-free capital	2,698	2,698
Customer advances	212	212
Net investment in electric plant in service	147,734	147,734
Allowance for Working Capital		
Materials and supplies	6,295	6,295
Investment in leased nuclear fuel	2	2
Prepayments	163	163
Minimum bank balances	658	658
Cash	4,488	4,488
Less: Average tax accruals	(690)	(690)
Customer deposits	(338)	(338)
Total allowance for working capital	10,578	10,578
Net investment in electric plant in service plus allowance for working capital	$158,312	$158,312
Fair value rate base	$191,266	$191,266
Rate of return on fair value rate base	5.17%	7.78%

SCHEDULE III
VIRGINIA ELECTRIC AND POWER COMPANY
DOCKET NO. E-22, SUB 224
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RETURN ON FAIR VALUE COMMON EQUITY
TWELVE MONTHS ENDED JUNE 30, 1977
(000's OMITTED)

Capitalization	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
	Present Rates - Fair Value Rate Base			
Total debt	$ 82,101	42.92	7.77	$ 6,379
Preferred and preference stock	22,179	11.60	8.43	1,870
Cost-free	507	.27	-0-	-
Fair value equity*	86,479	45.21	1.89	1,638
Total	$191,266	100.00	-	$ 9,887
	Approved Rates - Fair Value Rate Base			
Total debt	$ 82,101	42.92	7.77	$ 6,379
Preferred and preference stock	22,179	11.60	8.43	1,870
Cost-free	507	.27	-0-	-
Fair value equity*	86,479	45.21	7.67	6,631
Total	$191,266	100.00	-	$14,880

*Book equity	$53,525
Fair value increment	32,954
Total	$86,479

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Johnson and Public Staff witness Carter presented testimony concerning the rate-making treatment to be accorded the JDC. Although witness Johnson did not offer direct testimony concerning JDC, he did testify on the subject during cross-examination by counsel for the Public Staff. Also, he included JDC as a component of common equity on his exhibits.

During cross-examination, Mr. Johnson testified that the unamortized JDC should earn the common equity rate of return. He based his testimony on language contained in the House and Senate Committee Reports associated with the Revenue Act of 1971 and language contained in an information

letter, identified as BDJ Exhibit 8, addressed to the Chairman of the New Mexico Public Service Commission from Geoffrey J. Taylor, Acting Chief, Engineering and Valuation Branch of the Internal Revenue Service. Mr. Johnson stated that the House and Senate Committee Reports and the information letter from Mr. Taylor to the Chairman of the New Mexico Public Service Commission contained the following language which indicated that the JDC should earn the common equity rate of return:

> "In determining whether or to what extent a credit has been used to reduce the rate base, reference is to be made to any accounting treatment that can affect a utility's permitted return on investment by treating the credit in any way other than as though it had been contributed by the utility's common shareholders. This means that the cost of capital rate assigned to the credit cannot be less than the rate assigned to the common shareholders' investment. If a lesser rate were to be so assigned, it would be treated as, in effect, a rate base adjustment and the credit would be unavailable."

Mr. Johnson testified that this language was the Internal Revenue Service's official position on treatment of JDC for rate-making purposes. He further testified that this information letter carries more weight than an Internal Revenue Service Proposed Regulation.

Public Staff witness Carter testified that the unamortized JDC should earn the overall rate of return found fair by the Commission, not the common equity rate of return as requested by Vepco. Mr. Carter stated that he based his testimony on Section 46 of the Internal Revenue Code and Internal Revenue Service Proposed Regulation 1.46-5. Mr. Carter testified that the Internal Revenue Code specifies only two ways in which a regulated company would lose the job development credits. One is that the credit will be lost if the taxpayer's cost of service is reduced by more than a ratable portion of the credit and the other is that the credit will be lost if the rate base is reduced by any portion of the credit.

Mr. Carter testified that Internal Revenue Service Proposed Regulation 1.46-5(b)(3) contains the following language which indicates that the overall rate of return is all that is required for the JDC:

> "Rate base. For purposes of this section, the term 'rate base' means the base to which the taxpayer's rate of return for ratemaking purposes is applied (i.e., the monetary amount which is used as the divisor in calculating rate of return or the amount which is multiplied by the fair rate of return to determine the allowable return in the fixing of rate levels). In determining whether or to what extent a credit allowed under section 38 (determined without regard to section 46(f)) reduces the rate base, reference shall be made to

any accounting treatment of such credit that can affect the taxpayer's permitted profit on investment. Thus, for example, assigning a 'cost of capital' rate to the amount of such credit which is less that the permissible overall rate of return (determined without regard to the credit) would be treated as, in effect, a rate base adjustment. What is the overall rate of return depends upon the practice of the regulatory body. Thus, for example, an overall rate of return may be a rate determined on the basis of an average or weighted average of allowable rates of return on investments by common stockholders, preferred stockholders, and creditors."

Mr. Carter further testified that on April 10, 1978, Mr. M.D. Coleman, Director of Accounting for the Public Staff mailed a questionnaire letter to the other 49 State Utility Regulatory Commissions as well as the District of Columbia Commission, the Federal Energy Regulatory Commission and the Federal Communications Commission requesting whether each Commission allows the overall rate of return or common equity rate of return on the JDC. Mr. Carter included the results of the survey in his direct testimony and stated that the results showed that an overwhelming majority of regulatory commissions responding to the questionnaire letter grant the overall rate of return on the JDC.

The Commission has considered the evidence presented concerning the cost-free nature of these funds and the decision it faces with regard to the granting of the overall or full equity return. The Commission does not desire to create a situation where Vepco would lose this tax advantage; however, the Commission places greater weight on the IRS proposed regulations regarding the potential loss of the credit rather than the IRS information letter and therefore concludes that the minimum return required on these funds is the overall rate of return.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

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 Public Staff witness Williams. The Public 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.

Public Staff witness Williams testified that the Company's fuel procurement activities appeared reasonable and within the guidelines adopted by the Commission. He indicated, however, certain contracts and spot coal procurement procedures which require further attention.

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; however, the Public Staff should continue to explore possible areas of improvement in fuel procurement with Vepco personnel.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 AND 15

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 witnesses Johnson and Puckett and Public Staff witness Williams.

Company witness Johnson testified that Vepco had included adjustments to revenues, expenses, and rate base to reflect the full amortization of the North Anna Unit No. 1 nuclear generating unit at a 60% capacity factor during the test period. He further testified that the design of the requested or proposed rates reflect the base fuel cost level that would have been experienced during the test year if adjusted for the pro forma operation of North Anna Unit No. 1. Such base fuel cost was calculated to be 1.400¢/Kwh including the Company's estimate for the estimated increased cost associated with the permanent disposal of spent nuclear fuel reprocessing.

Company witness Puckett subsequently testified that the proper base fuel cost level, after correcting for inadvertent errors and revised estimates for nuclear fuel disposal based on recent occurrences, should be 1.391¢/Kwh.

Public 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 an adjustment to normalize the operations of the Surry Nuclear Station at a 65% capacity factor for the test year and to exclude from the fuel cost adjustment formula the estimated cost of permanent disposal of spent nuclear fuel which he stated should be included as a fixed component of the basic rate and not subject to variations in fuel cost adjustment proceedings. Witness Williams recommended a base fuel cost level of 1.229¢/Kwh. This recommended level in base fuel cost anticipates a change in the definition of nuclear fuel expenses included in the recommended fuel cost adjustment formula to "exclude estimated cost and salvage value associated with reprocessing and disposal of the nuclear fuel and by-products." Witness Williams testified that the disposal expenses should be incorporated in the basic rates as a separately indentifiable component in the amount of 0.144¢/Kwh plus associated gross receipts tax if Vepco's proposed level of disposal costs were utilized and a 0.097¢/Kwh plus associated gross receipts tax if the Public Staff's recommended level of disposal costs allowance were utilized.

Based upon the foregoing testimony and exhibits, the Commission concludes that the base fuel cost level of 1.284¢/Kwh is 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 and that the basic rates and fuel cost adjustment formula proposed by Vepco should be adjusted accordingly. The Commission further concludes that the change in definition of allowable nuclear fuel expenses in the fuel cost adjustment formula recommended by witness Williams is appropriate and that 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. Based on the evidence and conclusions discussed above, the Commission concludes that the proper level of disposal expenses to include as a separately identifiable component in the base rate is 0.107¢/Kwh plus associated gross receipts tax.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The basic rate schedules under which Vepco charges its retail customers in North Carolina include a charge for fuel at some average base level. In addition to the basic rate, the Company is allowed to charge its customers for changes in fuel costs from that base level through the fuel adjustment proceedings under G.S. 62-134(e).

In this docket, the Company proposed to include in its basic rates as an average base cost of fuel 1.4¢/Kwh which was the Company's calculation of the average fuel cost during the adjusted test year. In its testimony, the Public Staff indicated that including the average level of fuel expense in the basic rates should have the effect of zeroing the fuel clause for the test year for rate-making purposes. The Public Staff indicated that rather than utilizing zero average test year level of fuel clause revenues, the Company attempted to calculate the actual fuel revenues for the test year under a clause with a base of 1.4¢/Kwh. The Company determined that the fuel clause would have refunded approximately $1.5 million to the ratepayers during the test year and, thus, to offset this refund, increased the revenue target for its basic rates by the $1.5 million.

The Public Staff stated that Vepco's proposed adjustment to the basic rate target revenues should not be made. The Public Staff witnesses testified that the basic rates should be designed to fully recover the test year fuel expense as if no fuel cost adjustment procedure existed. This expense, incorporated into the basic rates, should then be used to establish the base fuel cost level to be used prospectively in fuel cost adjustment proceedings.

The Public Staff indicated that the fuel adjustment procedure being used in North Carolina is designed to use "mini-historical test periods" to develop the expected level

of fuel expense during any particular month and to adjust rates to reflect this historical level of expense. Under this procedure, there is no attempt to exactly match fuel revenues and fuel expenses.

Further, the Public Staff testified that the difference in fuel revenue recovery and fuel expense is created by the mismatch in Kwh sales between the mini-test periods used to determine the fuel adjustment charge and the billing month in which the charge is applied. The Public Staff witnesses stated that this mismatch in revenues and expenses had been considered a built-in incentive for efficient fuel procurement and power plant operation and that the adjustment adds a component to the basic rates to fully recover this mismatch, thus, eliminating the built-in monetary incentive.

The Commission agrees with the Public Staff's arguments and, thus, concludes that Vepco's rates should be designed in this proceeding as if no fuel adjustment procedure existed. This will result in basic rates which include the test year level of fuel expenses. This average level of expense should then be used as the base in future fuel adjustment proceedings.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The Commission takes judicial notice of Vepco's application in Docket No. E-22, Sub 233, 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 September 1978.

The rates herein approved contains a different base fuel cost level (1.284¢/Kwh) than the base fuel cost level (1.290¢/Kwh) approved in the basic rates in Docket No. E-22, Sub 203, 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 three-month test period in Docket No. E-22, Sub 233, and making appropriate changes in the compntation of the adjustment factor to reflect the change in the base fuel cost level result in a charge of 0.129¢/Kwh. This is the proper and appropriate approved fuel charge that should be applied to the basic rates approved herein during the September billing month.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

Through the testimony of H.H. Wilson, Vepco's witness on rate design, the Company proposed several changes in its Service Rules and Regulations. Many of the proposed revisions were minor notational or word changes. None of the Company's proposals would significantly alter the meaning or application of any of the provisions of the Service Rules and Regulations.

Vepco did propose adjustments to the charges for special services which are included in the Service Rules and Regulations. One such adjustment was to increase the charge from $6.50 to $8.00 for trouble calls where it is found that the Company's equipment is not at fault. The connection and reconnection charges were increased from $5.00 to $7.50. The Company proposed to decrease the charge for installing a temporary service drop from $64.00 to $55.00. In each case the reason for the proposed adjustment was to more closely reflect the current cost of supplying the service. Finally, Vepco proposed to increase the charge for supplying extra facilities to reflect the return being requested in this proceeding.

The Public Staff's rate design witness, N.E. Tucker, indicated that the Public Staff reviewed the proposed changes in Vepco's Service Rules and Regulations and was in agreement with the Company's revisions with one reservation. The Public Staff suggested that in the event the Commission granted a rate of return differing from that proposed by the Company, the extra facilities charge be adjusted to reflect the approved overall rate of return.

There was no additional direct testimony regarding the proposed Service Rules and Regulations. Further, neither Mr. Wilson nor Mr. Tucker received any cross-examination concerning this area of their testimony. It is the opinion of the Commission, therefore, that the Vepco's Service Rules and Regulations should be approved as filed with the exception that the charges for extra facilities should be required to reflect the actual rate of return approved herein.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19 AND 20

In its testimony, Vepco stated that the principles of basing rates on costs and producing nearly equal rates of return from the major customer classes were followed in designing the proposed rates and charges to produce the requested rate increase. Company witness Wilson indicated that the first step in designing the proposed rates was to adjust certain special service charges to reflect current costs. These include charges for connection and reconnection of service, temporary service, trouble calls, and extra facilities. Next, a study was performed to determine the current revenue requirement of each type of outdoor lighting fixture offered under Schedules 26 and 27.

These requirements were used to set the proposed monthly rates. The increase in revenues resulting from the above changes was determined and subtracted from the total request resulting in the revenue increase to be distributed among the other classes of service. This distribution was made to approximately equalize the rate of return earned from each class of service based upon the 1976 cost of service study. The Company pointed out that the movement towards equalization of rates of return between rate classes is a continuation of rate design trends in Vepco's past three rate cases.

The Company modified its originally proposed rates to correct an error in the adjustments made to annualize the operation of the North Anna nuclear unit. The impact of the modified proposed rates on the rates of return earned by each rate class was reviewed by the Public Staff. Public Staff witness Tucker testified that the Company's proposal resulted in a general reduction in the variations in rates of return. It was stated that the returns for each major rate class were within 2.5% of the average rate of return. The Public Staff indicated that the return for the Outdoor Lighting Schedule varied significantly from the average; however, several reasons were presented to explain this large variation. The major reason discussed was the fact that the cost study used in developing rates was a "per-book" study rather than a study which included accounting adjustments. The lighting schedules were designed from the per-book study using a return on investment of 9.6% (approximately the return being requested). Since pro forma accounting adjustments were not reflected in the cost of service study, the return earned by the remaining proposed schedules was shown to be approximately 13% on per-book operations. The Public Staff indicated that most of the accounting adjustments were related to the bulk power supply system and since lighting usage is off-peak, little or none of the production plant is allocable to that class. For this reason, the adjustments would have the effect of lowering the returns shown on the per-book study for the other rate classes while having little effect on the return of the lighting class; therefore, it was the Public Staff's testimony that the lower rate of return for lighting appeared justified. Thus, the Public Staff agreed with the allocation of the rate increase between rate schedules proposed by the Company.

The Commission is of the opinion that the electric rates to each customer class should reflect the cost of serving that class. Thus, it is desirable that to the extent possible equal rates of return between rate classifications should be maintained. From the testimony cited above, it would appear that this was also the intent of the Company and the Public Staff in the designs of the rate schedules proposed in this proceeding. The rate schedules approved herein continue this trend. For the reasons discussed, the Commission approves the proposed lighting schedules. The remaining approved rate schedules provide the increase in

total revenues granted for test year operations and produce substantially equal rates of return based on the 1976 cost of service study.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

Only two witnesses presented testimony on rate design, H.M. Wilson for Vepco and N.B. Tucker for the Public Staff. The major points of each testimony will be summarized below.

The Company proposed an increase of approximately $13.2 million based on the proposed adjusted test year operations. Adjustments were made in test year fuel revenues to reflect changes in nuclear fuel expense resulting from the annualization of the operation of North Anna Unit No. 1 and from the inclusion of the throwaway fuel cycle. For this reason, the increase proposed by Vepco over actual test year revenues was only $10.4 million.

In Schedule 1, Residental Service, the Company proposed to eliminate the current water heating discount of 0.15¢ per Kwh for the first 800 Kwh. The Company attempted to increase the energy charges on an equal cent per Kwh basis so that the current differential between summer and winter prices would be maintained. This approach would have required large increases in the winter tail block; therefore, that block was increased less than the summer block on a per Kwh basis resulting in a widening of the seasonal differential. The Public Staff agreed with the Company's design of the proposed Schedule 1. The Public Staff indicated that with the relative growth of Vepco's winter peak it would not generally propose an increase in the seasonal differential; however, due to the percentage increase required on winter usage to maintain a constant differential in this case, the slight increase in seasonal differential appeared justified. The Public Staff stated that any adjustment in this schedule made to reflect the approval of a lower level of increase than proposed by the Company should be made to reduce the seasonal differential to current levels.

The Company proposed several design changes in Schedule 5, Small General Service. First, the first block was increased from 600 Kwh to 800 Kwh and priced at the level of the first 800 Kwh on Schedule 1 so that commercial customers would not be paying less than residential customers. The demand cutoff provision which is designed to reduce migration between Schedules 5 and 6 was changed from $1.00 per Kw for demand in excess of 200 Kw to $2.50 per Kw for demand in excess of 100 Kw. The Public Staff proposed a reduction in the level of the Basic Customer Charge from that proposed by the Company to reflect the cost of Kwh meters rather than demand meters in the customer charge. The Public Staff also proposed a reduction in the proposed demand cutoff provision from $2.50 per Kw to $1.50 per Kw.

Schedule 5P, Service to Cotton Gins, is a time-of-day offering for cotton ginning only. It is priced to reflect prices developed in NERA's long-run marginal cost study. The energy and demand prices were set based upon the cost study and the demand charges were adjusted to meet revenue requirements. There were major shifts in seasonal cost responsibility between the cost study on which this rate was originally based and the current study. To limit the impact of the shifting of cost responsibility, the Public Staff proposed no change in the summer demand charge with an increase in the winter charge sufficient to meet the revenue requirement.

The only change proposed by the Company in Schedule 6, Large General Service, was a combining of the first two blocks of the energy charges. The Public Staff proposed a slight reblocking of the demand charges such that break points would occur at 50 Kw, 1,000 Kw, and 5,000 Kw. The Public Staff proposed larger increase on energy charges to more closely reflect energy related cost with correspondingly smaller increase on demand charges. Finally, the Public Staff proposed that the winter demand ratchet provision be increased from 50% to 65% to reflect the relative growth of the winter system peak.

No rate design changes were proposed by the Company for Schedule 7, Electric Heating. The Public Staff proposed to eliminate the water-heating provision of that rate to be consistent with the proposal in Schedule 1.

The Company proposed several changes for Schedule 30, County and Municipal Service. The design and pricing of this schedule is almost identical to that of Schedule 5. To maintain this similarity, the Company proposed to include a demand cutoff provision in Schedule 30 of $1.50 per Kw for demand exceeding 100 Kw. Also, Vepco proposed to insititute a minimum bill provision in Schedule 30 priced identical to the provision proposed in Schedule 5. The Public Staff proposed that the new minimum bill provision in Schedule 30 be priced much lower than that of Schedule 5. The Schedule 5 pricing was the result of applying approximately the average percentage increase to the existing provision. On Schedule 30, the proposed provision was a totally new charge. The Public Staff proposed a minimum charge of $2.00 per Kw in the summer season and $1.00 per Kw in the winter to limit the impact of the new charge on customers.

Schedule 42, County, Municipal or Housing Authority All-Electric Building Service, is almost identical to Schedule 7. Neither the Company nor the Public Staff proposed design changes for this schedule.

The lighting schedules, Schedules 26 and 27, were priced based upon a detailed cost study performed by the Company. The Public Staff reviewed this study and agreed with the Company's proposals.

The Commission has reviewed in detail the rate design testimony summarized above and has developed rate schedules which produce the approved increase of $10,805,000 based on adjusted test year operations or an increase above actual present revenues of $7,666,000 and reflect the Commission's conclusions with respect to the rate design issues presented in that testimony. The Commission concludes that those schedules which are attached as Appendix A to this Order produce rates of return from the various classes of customers that are reasonable and that the design of these rate schedules is reasonable and proper.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 22

The testimony of Public Staff witness Stevens concerning complaints received against Vepco during the last two years indicated no identifiable problem areas in the service provided by the Company. Witness Stevens indicated the Company's complaint handling procedures were efficient and thorough.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 23

According to Mr. Proffitt, Vepco has committed to add new generating facilities for the summers of 1979, 1982, 1983, 1984, and 1985 to supply a load growth between 1978 and 1987 slightly above 5.5%. Mr. Proffitt's Exhibit WLP-3 indicated a possible fossil addition for 1987 under Vepco's estimated load growth. In his testimony he stated that if future load growth indicated a need for new capacity additions, Vepco would build a fossil unit around 800Mw, as shown in his Exhibit WLP-3. It was also stated that such a determination did not have to be made today but could wait several years, as late as 1980. Mr. Ragone testified that Vepco already has site investigations underway and that the Company has funds allocated for site investigations for another two years. Both Mr. Ragone and Mr. Proffitt indicated a fear that Vepco may not be building enough capacity to supply future demands.

Mr. Nightingale, of the Public Staff, expressed concern over Vepco's proposed construction schedule. Based upon the Public Staff's "Analysis of Long Range Needs for Electric Generating Facilities in North Carolina - 1978," it was shown that between 1978 and 1985 the Public Staff expects Vepco's demand to increase about 580Mw per year compared to Vepco's expected 525Mw. Using the same report he further noted that the lead time for a future fossil unit is currently from eight to 10 or more years. He further indicated that Vepco's proposed Bath County Pumped Storage Project would not achieve full economic value without the addition of more nuclear capacity. Mr. Nightingale further indicated that studies he has performed and those obtained from Vepco indicated that nuclear facilities over their expected service lives were the least expensive base load unit a utility could own and operate.

With regard to this matter, the Commission also takes judicial notice of Docket No. E-100, Sub 22 and Docket No. E-32 (pending), both entitled, "Investigation, Analysis, and Estimation of Future Growth in the Use of Electricity and the Need for Future Generating Capacity for North Carolina."

Based upon the aforementioned information before the Commission, it is evident that the demand for electricity in Vepco's service area will increase with time. The Commission concludes that it is essential that Vepco construct a new base load plant in order to meet this demand. Present plans do not provide for such a plant.

The Commission is aware of the fact that the North Carolina service area of Vepco has for many years lagged the rest of the state and the nation in economic development. There is a recognition of this problem at both State and Federal levels of government and positive measures to encourage economic development are being pursued by both private and public groups. The Commission is concerned that these much needed development efforts may be stymied by both inadequate supplies of electricity and the high cost of electricity. The Commission has held this increase to the lowest range of return which the evidence will support in this case, but will not remain satisfied that this is all that can be done in future investigations into the cause of the disparity between these rates and the rates in the rest of North Carolina.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That effective for retail electric service rendered in North Carolina on and after September 1, 1978, Virginia Electric and Power Company is hereby allowed to place into effect the increased rates described in paragraph 5 below, which rates are designed to produce additional annual revenues in the amount of $10,805,000 based on the adjusted test year operations or an increase above actual test year revenues of approximately $7,666,000.

2. That the proposed rates filed by Vepco which were designed to produce additional revenues of $13,236,000 are in excess of those which are just and reasonable and the same are hereby disapproved and denied.

3. That at such time as Vepco demonstrates to the Commission that it has made a firm commitment to a construction program to more adequately meet projected needs, Vepco shall be allowed to increase its rates and charges so as to produce an additional $583,000 in gross annual revenues in order for the Company to be allowed the opportunity to earn the 7.92% return on fair value rate base found fair in this Order based upon the cost of capital and risk associated with the larger construction program; provided, however, that with respect to the additional $583,000 the Commission will hold a hearing to develop

Supplemental Security Income (SSI) data necessary to establish the same SSI rate category as approved in Docket No. E-7, Sub 237 (Duke Power Company general rate proceeding), on August 31, 1978, so that the additional $583,000 increase will not apply to those customers of Vepco receiving SSI benefits.

4. That if Vepco has not made a firm commitment to a construction program within one year from the date of this Order which will adequately meet projected needs, Vepco's rates and charges shall be reduced by $303,000 in gross annual revenues to reflect the disallowance of the amortization of the abandoned construction cost unless the Company shows cause at that time why this action should not be taken.

5. That the rates and changes to the Service Rules and Regulations approved herein, with the exception of changes to the Extra Facilities Charges, are set forth in Appendix A attached hereto. The Company shall reprice the Extra Facilities Charges to reflect the rate of return approved herein and incorporate this change 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 September 4, 1978.

6. That an Approved Fuel Charge in the amount of a 0.129¢/Kwh charge is herein approved to be applied during the September 1978 billing month to the basic rates herein approved.

7. 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). Vepco 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 Vepco pursuant to G.S. 62-134(e).

8. That the basic rate design approved herein contains charges of 0.114¢ per Kilowatt-hour for the permanent disposal of the nuclear fuel consumed during the test year. 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.

9. That if Vepco loses the right to continue operating the North Anna nuclear unit for any reason, then the Commission shall institute a show cause proceeding to determine why the rate increases approved for Vepco herein should not be suspended.

10. 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 31st day of August, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

DOCKET NO. E-35, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina) RECOMMENDED ORDER
University for an Adjustment of) SETTING RATES AND
Its Rates and Charges) CHARGES

HEARD IN: Jackson County Courthouse, Sylva, North Carolina, on March 15, 1978, at 10:00 a.m.

BEFORE: Antoinette R. Wike, Hearing Examiner

APPEARANCES:

For the Applicant:

William B. Scott, Jr., Legal Counsel, Western Carolina University, Cullowhee, North Carolina

For the Public Staff:

Paul L. Lassiter, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

WIKE, HEARING EXAMINER: On September 20, 1977, Western Carolina University (Western Carolina or Applicant) filed an application with this Commission for authority to increase its electric rates and charges to its customers in the Cullowhee area, Jackson County, North Carolina. Western Carolina is not a public utility. It operates an electric plant and distribution system, however, and is authorized by G.S. 116-35 to sell electricity to the surrounding community at rates approved by the Commission. The application proposed an annual increase in gross revenues of approximately $53,089 or 13.5% over and above that produced by the present rates.

On September 22, 1977, the Public Staff filed Notice of Intervention. By Order issued on September 23, 1977, the Commission recognized the Intervention of the Public Staff.

The Commission, by Order dated October 4, 1977, declared this matter to be a general rate case, suspended the proposed increase in rates, set the application for hearing on December 14, 1977, and ordered Western Carolina to give notice to the public of the proposed rate increase.

On December 2, 1977, Western Carolina filed a Motion that the hearing be continued for a period of approximately 45 days. The Applicant requested this extension for the purpose of incorporating into its original exhibits substantial additions to its plant in service. The Commission, by Order dated December 5, 1977, granted the Applicant's Motion and rescheduled the hearing for Wednesday, February 1, 1978.

On January 13, 1978, Western Carolina filed revised exhibits. These revised exhibits incorporated the $108,000 cost of system improvements that Western Carolina had just expended to update its system. The revised exhibits also reflected a lowering of the proposed rates from the levels originally requested. The revised proposed rates would be approximately 9.8% above the present rates.

On January 17, 1978, the Public Staff filed a Motion for Continuance. This Motion was based on the Public Staff's need for more time to analyze and study the revised exhibits filed by Western Carolina on January 13, 1978. The Commission, by Order issued January 18, 1978, granted the Motion, rescheduled the hearing for March 15, 1978, and required the Applicant to publish notice of the rescheduled hearing.

The application came on for hearing on Wednesday, March 15, 1978, at the Jackson County Courthouse in Sylva, North Carolina. The Applicant offered the testimony of Ray D. Cohn, Vice-President of Southeastern Consulting Engineers, Inc.; Dr. C. Joseph Carter, Vice-Chancellor for Business Affairs, Western Carolina University; and William Stump, Assistant to the Director of the Physical Plant, Western Carolina University. The Public Staff offered the testimony of E. Thomas Aiken, Public Staff Accountant, concerning original cost net investment, revenues, and expenses; J. Reed Bumgarner, Jr., Public Staff Distribution Engineer, Electric Division, concerning the service conditions and quality of electric service of the Applicant; and Edwin A. Rosenberg, Public Staff Economist, concerning rate of return and cost of capital. There were no public witnesses.

Based upon the application and prefiled exhibits, the evidence adduced at the hearing, and the entire record in this docket, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Western Carolina University, although not a public utility, owns and operates an electric distribution system and is subject to the jurisdiction of the North Carolina Utilities Commission with respect to the rates charged and services rendered to its retail electric customers in the Cullowhee area, Jackson County, North Carolina.

2. The test period for purposes of this proceeding is the 12 months ended June 30, 1977.

3. The reasonable original cost of Western Carolina's plant in service used and useful in providing retail electric service in North Carolina is $795,998; the reasonable accumulated provision for depreciation is $160,876; and the reasonable original cost less depreciation is $635,122.

4. The reasonable replacement cost less depreciation of Western Carolina's property used and useful in providing retail electric service in North Carolina is $1,113,892.

5. The reasonable allowance for working capital is $26,816.

6. The fair value of Western Carolina's plant used and useful in providing retail electric service in North Carolina should be derived from giving 8/10 weighting to the original cost of Western Carolina's depreciated plant in service and 2/10 to the replacement cost depreciated of Western Carolina's plant. By this method, using the depreciated original cost of $635,122 and a depreciated replacement cost of $1,113,892, the Hearing Examiner finds that the fair value of the plant devoted to retail service in North Carolina is $730,876. This fair value includes a reasonable fair value increment of $95,754.

7. The fair value of Western Carolina's plant in service used and useful in providing retail electric service to the public within North Carolina of $730,876 plus a reasonable allowance for working capital of $26,816 yields the reasonable fair value of Western Carolina's property in service to North Carolina retail customers of $757,692.

8. Western Carolina's gross operating revenues for the test year after accounting and pro forma adjustments under present rates are $439,094 and, after giving effect to the proposed rates, would have been $477,979 during the test year.

9. The level of operating expenses after accounting and pro forma adjustments is $388,955, which includes $26,188 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end level.

10. The fair rate of return that Western Carolina should have the opportunity to earn on the fair value of its North Carolina investment for retail operations is approximately 9.4%, which requires additional annual revenue from North Carolina retail customers of $19,852 based upon the test year level of operations. This rate of return on the fair value of Western Carolina's property also yields a rate of return on the fair value equity of 10.11%.

11. The rate schedule attached as Exhibit A is just and reasonable and is designed to produce an increase in revenues of approximately $19,852 based upon the June 30, 1977, test period.

12. Western Carolina University, by carrying out the recommendations contained in its "Electric Distribution System Study," can provide adequate and reliable service to its customers.

13. As of the date of hearing, Western Carolina had not fully implemented the Uniform System of Accounts in compliance with the Order of the Commission in Docket No. E-35, Sub 4.

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

The evidence for these findings is contained in the verified application, the testimony of witnesses Cohn, Stump, and Bumgarner, prior records of the Commission, and N.C.G.S. 116-35. These findings are essentially jurisdictional and procedural and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3 AND 4

Western Carolina's exhibits show cost data derived from a system evaluation study performed in 1973 by Southeastern Consulting Engineers, Inc., plus additions to the system through the end of the test year and system improvements constructed subsequent to the end of the test year. In its study, Southeastern first made an inventory of all items in the plant accounts. The accounts were initially valued by the use of representative construction bids for the Fourth Quarter of 1972. Next, depreciation reserves were calculated for each account by applying Standard Federal Power Commission depreciation rates to each individual account, based upon average age. In order to arrive at an estimated original cost as of March 31, 1973, Southeastern used the Handy-Whitman Index to reverse trend each account from replacement cost to when it was new on-the-average.

The revised exhibits offered by Western Carolina show original cost of utility plant in service of $719,097 and a reserve for depreciation of $184,987. These exhibits also show a replacement cost of $1,248,130 with a depreciation reserve of $184,987.

The original cost of utility plant in service of $709,134.84 shown by Western Carolina in its original application plus a Public Staff adjustment of $1,548.92 to installations on customers' premises, the total of which is $710,683.76, appears to be reasonable and not overstated. The Hearing Examiner therefore concludes that $710,683.76 plus system improvements of $97,109.16 constructed subsequent to the end of the test year less retirements of $11,794.77, leaving an original cost of $795,998.15 as the investment in utility plant in service as shown in Aiken Exhibit 1, Schedule 2-1, should be adopted for the purpose of setting rates in this docket. The depreciation reserve as shown in Aiken Exhibit 1, Schedule 2-2, of $160,876 also should be adopted herein.

Calcnlated in the manner presented by the Company and using the original cost of $795,998 and the depreciation reserve of $160,876, the trended original cost less depreciation is $1,113,892. The Hearing Examiner concludes that the trended original cost less depreciation of $1,113,892 should be adopted for the purpose of setting rates in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Public Staff proposed a computation of working capital by using the end-of-period materials and supplies inventory plus a cash working capital allowance of 1/8 of the operating expenses, less customer deposits at the end of period, which yields an amount of $26,816. The Hearing Examiner concludes that this amount is a reasonable allowance for working capital.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 AND 7

The Hearing Examiner concludes upon consideration of the original cost less depreciation, the replacement cost less depreciation, the impact of weighting upon the financing capability of the Applicant, and the economic welfare of its ratepayers, both long- and short-term, that the reasonable weighting of original cost less depreciation is 8/10 and the reasonable weighting of the replacement cost less depreciation is 2/10 in the calculation of the fair value of the plant in service to the ratepayers of North Carolina. The fair value of plant thus determined is $730,876.

To the determination of a reasonable fair value of Western Carolina's plant used and useful in providing retail electric service in North Carolina must be added an allowance for working capital. The Hearing Examiner concludes that the fair value of electric plant in service of $730,876 plus a reasonable allowance for working capital of $26,816 yields the fair value of Western Carolina's property of $757,692.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8 AND 9

The evidence for these findings is contained in the Applicant's revised exhibits and in the testimony and exhibits of Public Staff witness Aiken. The Staff's adjustments, which were essentially uncontested, are reasonable and proper. The revenue figures presented by Mr. Aiken, however, are based on Western Carolina's original filing. The Hearing Examiner concludes that the level of test-period revenues and expenses before and after the proposed rates are as shown on Aiken Exhibit I, Schedule 5, modified to reflect the revenue increase in the revised rate proposal.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The question of whether the proposed rates or, indeed, any rates are just and reasonable is one which can be answered only upon consideration of all the facts of the case. The rates allowed herein must enable Western Carolina to meet its obligations to its ratepayers and earn a reasonable return on its investment while at the same time fulfilling the requirement 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 of the United States..."

State ex rel. Utilities Commission v. Duke Power Company, 285 N.C. 377, 206 S.E. 2d, 269 (1974).

The testimony of Mr. Cohn for Western Carolina indicated that the proposed rates were designed or projected to produce a rate of return of 11.03% on the fair value of plant in service as determined by Western Carolina. This rate of return is approximately equal to that allowed in Docket No. E-35, Sub 4, Western Carolina's previous general rate case, by Order entered January 16, 1976.

Mr. Rosenberg, testifying for the Public Staff, stated that a rate of return of 10.86% on the net original cost of Western Carolina's investment in its electric utility operations would provide sufficient dollars to meet the test of a fair rate of return under G.S. 62-133(b)(4). He also stated that the 10.86% figure was at the upper end of the reasonable range due to Western Carolina's relatively small and only recent use of debt capital to finance utility plant investment. He stated that Western Carolina might be able to reduce its overall cost of capital by adopting the use of more debt to finance utility plant but that the overall cost of capital would not fall below 10%.

Although much of the evidence on the matter of the cost of capital and the fair rate of return is, as noted by Mr. Rosenberg, highly subjective, it appears that a reasonable estimate of the cost of capital to the electric utility

operations of Western Carolina University would be in the range of 10% to 11% overall. Such a range is clearly below the overall return on net original cost investment of 13.69% which would result from the proposed rates.

A rate of return on the above determined fair value of 9.40%, which results in a return of 10.11% on fair value equity investment, requires additional revenues of $19,852 and is equivalent to a return of 10.76% on the net original cost of Western Carolina's investment. Such a level of return lies at the upper end of the reasonable range for the cost of capital to the electric utility operations and can be expected to provide Western Carolina with revenues sufficient to maintain and upgrade its facilities in accordance with its plans, recover all its reasonable operating expenses, and earn an acceptable return on investment.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

As shown in the application, Western Carolina collected $393,252 in basic rate residential sales revenue for the 12-month period ended June 30, 1977. If the end of end-of-period rates had been in effect throughout the test period, an additional $4,948 in basic rate sales revenue would have been collected, as shown by witness Aiken, producing a total of $398,200 in basic rate revenue. An across-the-board increase of 4.985% on Western Carolina's basic rate schedules would produce the approximately $19,852 in additional annual revenues found to be required in Finding of Fact No. 10. This 4.985% across-the-board increase is reflected in the rate schedule attached hereto as Appendix A.

The following schedule summarizes the gross revenues and the rates of return which Western Carolina should have a reasonable opportunity to achieve based upon the increase approved herein. Such schedules incorporate the findings and conclusions heretofore and herein made by the Hearing Examiner.

SCHEDULE I
Western Carolina University
Docket No. E-35, Sub 9
STATEMENT OF RETURN
Twelve Months Ended June 30, 1977

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Residential sales	$438,213	$ 19,852	$458,065
Miscellaneous service revenues	822		822
Other	59		59
Total operating revenues	$439,094	$ 19,852	$458,946
Operating Expenses			
Operation and maintenance expense	63,015		63,015
Purchased power	299,752		299,752
Depreciation	26,188		26,188
Total operating expenses	388,955		388,955
Net operating income	50,139	19,852	69,991
Annualization factor 1.76%	882	350	1,232
Net operating income for return	$ 51,021	$ 20,202	$ 71,223
Investment in Utility Plant			
Electric plant in service	$795,998		$795,998
Less: Accumulated depreciation	160,876		160,876
Net investment in electric plant in service	635,122		635,122
Allowance for Working Capital			
Materials and supplies	33,853		33,853
Cash	7,877		7,877
Less: Customer deposits	(14,914)		(14,914)
Total working capital allowance	26,816		26,816
Net investment in electric plant in service plus allowance for working capital	$661,938		$661,938
Fair value rate base	$757,692		$757,692
Rate of return on fair value rate base	6.73%		9.40%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Witness Cohn, testifying for Western Carolina, stated that Western Carolina had not experienced any service problems due to current overloads in meeting its winter peak load. He also testified that system improvements completed in the

fall and winter were made to alleviate the conditions on those lines which were most heavily overloaded.

Witness Carter, also testifying for Western Carolina, acknowledged on cross-examination that Western Carolina has a continuing duty to make system improvements to provide adequate and reliable service to its electric customers.

Witness Bumgarner, testifying for the Public Staff, stated that Western Carolina's customers had experienced poor service conditions in the past but that the long-range plan for upgrading the distribution system would ensure adequate and reliable service in the future.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Witness Aiken of the Public Staff testified that, while he had observed some effort on the part of Western Carolina to conform its books and records to the Uniform System of Accounts, there appeared to have been no substantial improvement in the establishment and maintenance of current and proper records of electric plant in service. Witness Stump, testifying for Western Carolina, stated that within two weeks' time Western Carolina would have the books and records of the Power Department in such order as to maintain them in compliance with the Uniform System of Accounts. The Hearing Examiner trusts that this has now been done.

Based on the foregoing, the Hearing Examiner concludes that Western Carolina University should continue to adhere to the long-range plan for system improvement entitled "Electric Distribution System Study" which has been made a part of the record in this docket.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Western Carolina University, be, and hereby is, authorized to increase its North Carolina rates and charges to produce additional annual gross revenues not to exceed $19,852, as hereinafter set forth in Exhibit A.

2. That the schedule of rates set forth in Exhibit A, attached hereto, which will produce additional gross revenues of approximately $19,852, be, and hereby is, approved beginning with the first billing cycle on or after the date of this Order.

3. That Western Carolina take immediate steps to conform its books and records to the Uniform System of Accounts and file reports with the Commission at 30-day intervals detailing its compliance with the Uniform System of Accounts.

4. That Western Carolina University make the system improvements detailed in the planning study performed by

Southeastern Engineers and conform to the schedule of construction recommended therein.

5. That Western Carolina give public notice of the rate increase approved herein by mailing a copy of the Notice attached as Exhibit B by first class mail to each of its North Carolina retail customers during the next billing cycle.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of June, 1978.

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

EXHIBIT A
WESTERN CAROLINA UNIVERSITY
APPROVED RATES

MONTHLY ELECTRIC RATE FOR ALL CUSTOMERS

First 20 Kwh or less		$1.78
Next 30 Kwh	@	.08915
Next 50 Kwh	@	.05350
Next 100 Kwh	@	.03566
Next 550 Kwh	@	.02229
All over 750 Kwh	@	.01784

Plus a fuel adjustment charge.

EXHIBIT B
DOCKET NO. E-35, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina University)
for an Adjustment of its Rates and Charges) NOTICE

Upon application of Western Carolina University in Docket No. E-35, Sub 9, the North Carolina Utilities Commission approved an across-the-board rate increase of 4.985% on Western Carolina's single rate schedule. This rate increase is effective June 27, 1978.

As part of its Order, the Commission has directed Western Carolina University to make system improvements to upgrade the service provided to Western Carolina University's electric customers. These improvements include the construction of a new switching station, the upgrading of existing circuitry by installation of new conductors, and the increasing of the primary voltage on certain key circuits.

This the 7th day of June, 1978.

Western Carolina University

DOCKET NO. A-20, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Josiah W. Bailey, Jr., 710 Arendell Street, Morehead City, North Carolina - Petition for Suspension of Passenger Service	) ORDER) GRANTING) PETITION)

BY THE COMMISSION: Upon consideration of the record in this matter and of a Petition filed with the Commission on May 11, 1978, by Mr. R. D. Darden, Jr., Attorney at Law, Morehead City, North Carolina, for and on behalf of Josiah W. Bailey, Jr., Morehead City, North Carolina, requesting an authorized suspension of operations under Certificate No. A-20 for the transportation of passengers from Harkers Island, North Carolina, to Core Banks for the operating season of 1978 or until adequate docking and mooring facilities are available at the Core Banks terminus of the route, whichever occurs first, and good cause appearing,

IT IS, THEREFORE, ORDERED:

(1) That Josiah W. Bailey, Jr., be, and the same is hereby, granted an authorized suspension of operations under Certificate No. A-20 for the transportation of passengers between Harkers Island, North Carolina, and points on Core Banks, until January 1, 1979.

(2) That Josiah W. Bailey, Jr., notify the Commission in writing within thirty (30) days prior to January 1, 1979, of the status of the docking facilities on Core Banks and of his intention to resume service between the points involved herein or for an extension of the suspension of service authorized herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of May, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
North Carolina Natural Gas Corporation's) FURTHER
Application for Surcharge to Recover Net Cost of) ORDER ON
Emergency Purchase of Natural Gas) DEMAND

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on November 4, 1977

BEFORE: Commissioner Robert Fischbach, Presiding; and Commissioners Ben E. Roney, Leigh H. Hammond, and John W. Winters

APPEARANCES:

For the Applicant:

Donald W. McCoy, McCoy, Weaver, Wiggins, Cleveland & Raper, Attorneys at Law, Box 2129, Fayetteville, North Carolina 28302

For the Petitioner:

William H. McCullough, H. Hugh Stevens, Jr., and Charles C. Meeker, Sanford, Cannon, Adams & McCullough, Attorneys at Law, P. O. Box 389, Raleigh, North Carolina 27602
For: Farmers Chemical Association, Inc.

For the Attorney General:

Jesse C. Brake, Assistant Attorney General, P. O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Intervenor:

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

K. Jacqueline Bernat, Attorney, Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, Pennsylvania 15219
For: Aluminum Company of America

For the Public Staff:

Jerry B. Fruitt, Chief Counsel, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding originally came before the North Carolina Utilities Commission on the application of North Carolina Natural Gas Corporation (NCNG) to recover the net cost of emergency purchases of natural gas, which cost was incurred in the 1975-76 winter season. By letter Order of January 6, 1976, the Commission approved a surcharge of $.185 per Mcf on gas sales to all of NCNG's customers except residential and public housing. Farmers Chemical Association, Inc. (FCA), filed a Petition for Reconsideration in the matter on February 2, 1976, which Petition was scheduled for public hearing before the Commission on March 24, 1976. Said hearing resulted in the filing of an Order by the Commission on June 3, 1976, which Order affirmed the surcharge approved in the Commission's letter Order of January 6, 1976. FCA appealed this decision to the North Carolina Court of Appeals. In an opinion filed on June 15, 1977, in Docket No. 7610UC825 33 N.C.App. 433, the Court of Appeals ruled that the Order of the Commission stated that FCA operated at 100% capacity without making sufficient findings to explain its operating procedure and that the Commission failed to find facts to support the conclusion that FCA benefited from the purchase of emergency gas. The Court remanded the matter to the Commission for findings of fact, and conclusions of law, on the following issues.

1. Whether during the winter season of 1975-76 NCNG was without sufficient flowing gas to supply FCA with 100% service;

2. Whether on November 6, 1975, FCA and NCNG agreed that appellant would accept its 55% winter curtailment by operating at full capacity until January 3, 1976, and then closing down completely for various periods thereafter;

3. Whether the three Transco restorations permitted FCA to operate at 100% capacity throughout the 1975-76 winter without resorting to the use of any emergency gas;

4. Whether the Transco Interim Settlement established prices for emergency gas volumes incrementally and treated such gas as being injected last into the pipeline system for the period covered by such settlement;

5. Whether FCA put NCNG on notice in November and December 1975 that it did not want any emergency gas; and

6. Whether residential customers should be excluded from paying their share of the emergency surcharge.

By Orders issued September 12 and 28 and October 24, 1977, the Commission set this Remand for Oral Argument on November 4, 1977. Based on the total evidence and record that has been presented, the Commission hereby makes the following

FINDINGS OF FACT

1. North Carolina Natural Gas Corporation (NCNG) is a public utility distributing natural gas to customers in its service area in North Carolina, including Hertford County, North Carolina.

2. The 1975-76 winter entitlement season for NCNG was from November 16 to April 15. Projected curtailment by Transco for the 1975-76 winter season was the highest for any winter season in the history of NCNG. The curtailment for the 1974-75 winter season was 30%, which at that time was higher than any other preceding season.

3. NCNG is required to distribute natural gas supplies to its customers in accordance with priorities established in rule-making proceedings by this Commission. The priorities in effect for the period in question were established by the Commission's Order of September 9, 1975, in Docket No. G-100, Sub 24.

4. The Commission's curtailment priority system, Rule R6-19.2, as established in Docket No. G-100, Sub 24, required, in the event of possible curtailments, the sharing of available gas on a pro rata basis to customers within Priorities N, 0.1, 0.2, and P.

5. Decretal Paragraph No. 2 of the Commission's Order issued September 9, 1975, in Docket No. G-100, Sub 24 reads as follows:

"That each gas utility when necessary to curtail customers in Priorities N, 0.1, 0.2, P, and Q, shall be authorized to first curtail customers pro rata in Priorities N, 0.1, 0.2, and P by up to 35% and in Priority Q by up to 25% before further curtailment of service to any one customer within these Priorities is permitted. These percentages shall be calculated on base period volumes from November 1, 1972, through March 31, 1973.

After this level of pro rata curtailment is reached, each utility shall follow the curtailment priorities established by Revised Rule R6-19.2, as amended herein."

6. Decretal Paragraph No. 4 of said Order reads as follows:

"On or before November 10, 1975, each utility shall inform the Commission and its customers in Priorities N, 0.1, 0.2, P, Q of the required level of pro rata curtailment and thereafter shall advise the Commission and its customers at least 3 days in advance of any variation in curtailment caused by changes in weather conditions or supply."

7. Farmers Chemical is a corporation organized under the laws of the State of Tennessee as an agricultural cooperative association and authorized to do business in

North Carolina. Farmers Chemical produces nitrogen fertilizers for its four regional cooperative owners for distribution in North Carolina and other southeastern states from its manufacturing complex at Tunis, Hertford County, North Carolina. Farmers Chemical is managed by CF Industries, Inc., Long Grove, Illinois.

8. Farmers Chemical has a contract for firm natural gas service with its sole supplier NCNG, which contract is subject to Commission rules relating to curtailment of service.

9. Natural gas is a nonsubstitutable fuel for Farmers Chemical, and the natural gas received by it is used for feedstock and process purposes. Alternate fuels, including propane, are not feasible for use at the Tunis plant. Without natural gas the plant cannot operate. Moreover, the plant is designed such that safety and efficiency dictate that it cannot be operated at a capacity of less than 80%.

10. During the 1975-76 winter season, Farmers Chemical held a Priority 0.1 classification.

11. On or about October 3, 1975, Transco notified NCNG that due to Transco's curtailment the total entitlement of natural gas available to NCNG for the winter season would be 10,337,000 Mcf less 2% loss, or 10,130,260 Mcf (Nery Exhibit 3). Such entitlement provided 2,003,876 Mcf for FCA, or 45% of winter season requirements. (See Case I of Appendix A attached hereto.)

12. Transco made a first restoration of flowing gas volumes to NCNG on November 13, 1975, for the 1975-76 winter season in the amount of 1,019,000 Mcf less 2% line loss, or 998,620 Mcf (Nery Exhibit 3). Such restoration increased FCA's winter season share of NCNG's flowing gas supply to 2,884,960 Mcf, or 65% of requirements. Such share to FCA would be according to Commission Rule R6-19.2. (See Appendix A, Case II.)

13. Transco made a second restoration of flowing gas volumes to NCNG on December 10, 1975, for the 1975-76 winter season in the amount of 608,000 Mcf less 2% line loss, or 595,840 Mcf (Nery Exhibit 3). Such restoration, considered separate from emergency gas supplements, increased FCA's winter season share of NCNG's flowing gas supply to 3,230,995 Mcf, or 72.8% of requirements. Such increase in share would be according to Commission Rule R6-19.2. (See Appendix A, Case III.)

14. Transco made a third restoration of flowing gas volumes to NCNG on January 15, 1976, for the 1975-76 winter season in the amount of 1,494,000 Mcf less 2% line loss, or 1,464,120 Mcf (Nery Exhibit 3). Such restoration, considered separate from emergency gas supplements, increased FCA's winter season share of NCNG's flowing gas supply to 4,195,327 Mcf, or 94.5% of requirements. Such

increase in share would be according to Commission Rule R6-19.2. (See Appendix A, Case IV.)

15. On December 27, 1974, NCNG was forced to shut down the FCA plant because of Transco's curtailment that year. That cut by Transco applied to the whole winter season, which began on November 16, 1974. At the time the Tunis plant was shut down in December 1974, FCA had used far in excess of its share of NCNG's reduced entitlement from Transco. A similar situation might have developed in the 1975-76 winter. (FCA witness Borst; No. 7610UC825, Rp. 29)

16. On November 6, 1975, representatives of NCNG and FCA met, pursuant to the Commission's directive (Decretal paragraph No. 4, Docket No. G-100, Sub 24), to discuss FCA's requirements for the winter season and how such requirements might be met. FCA was informed that it could be served 2,003,876 Mcf, or 45% of requirements. On the basis of 29,200 Mcf per day, this supply could serve FCA at 100% for 68.6 days of the 152-day winter period. It was agreed that FCA would be allowed to operate 100% from November 16, 1975, through January 3, 1976. If consumption averaged less than 29,200 Mcf per day, FCA would be served the unused portion for up to three days or through January 6, 1976. The Tunis plant would then shut down for three weeks and reopen and run until February 12 or the balance of the winter depending upon the availability of gas. It was understood that, if Transco made restorations to its gas supply and NCNG had not experienced an abnormally cold winter, FCA would be given further service depending on NCNG's flexibility. The meeting of November 6, 1975, primarily concerned days of service during the winter season. The discussion of purchase of emergency gas occurred near the end of the meeting. (FCA witness Lawrence; No. 7610UC825, Rpp. 63-64, 66.)

17. At the November 6, 1975, meeting, FCA's response to NCNG's question concerning the purchase of emergency gas referred to a direct purchase for FCA at incremental pricing to supplement its 45% supply of flowing gas, not to emergency gas purchased for the system with costs borne by other customers as well. [FCA witness Borst, No. 7610UC825, Rp. 18, "... closing the plant if what we had to operate on was high priced intrastate gas," (emphasis added), Rp. 20, "FCA contends ... emergency gas .., should be ... rolled-in"; Rp. 24, "... gas should be priced on a rolled-in basis"; Rp. 27, "The incremental cost of that emergency gas is so high that it would not be economical ... The incremental price ... is something on the order of a dollar ninety-seven. That's an extremely high cost"; Rp. 27, "If ... we knew that our only source of gas was emergency gas at ... $1.97 per Mcf, we would have shut down."]

18. The incremental or additional cost of emergency gas was $1.03 per Mcf (NCNG witness Wells, No. 7610UC825,

Rp. 77; $1.89613 divided by 0.96 for Transco's line retention of 4%, minus $0.945).

19. The additional cost of serving FCA with direct-purchased emergency gas to supplement its 45% supply would have been $2,514,354 (0.55 times 4,438,400 Mcf times $1.03 per Mcf).

20. On or about December 1, 1975, NCNG contracted with Michigan Consolidated Gas Company for the purchase of 1,441,362 Mcf natural gas supplies at a price of $1.89613 per Mcf. Such quantity less a 4% compressor fuel and line loss yielded a total delivery to NCNG of 1,383,708 Mcf. The cost of such emergency gas in excess of flowing pipeline gas from Transcontinental Gas Pipeline Corporation (Transco) was $1,451,558. With the inclusion of North Carolina gross receipts taxes, the net additional cost of the temporary emergency purchase was $1,544,211 (No. 7610UC825, Rp. 4).

21. The natural gas under the emergency purchase began flowing on or about December 1, 1975, for a 60-day delivery period (No. 7610UC825, Rp. 3).

22. By telegram of December 1, 1975, NCNG notified Farmers Chemical of its intent to make an emergency purchase of natural gas supply and indicated the approximate amount of the surcharge on all nonresidential gas sales during the winter period as $.22 per Mcf. FCA's new winter period share of NCNG's gas supply was 3,626,173 Mcf, including 741,213 Mcf of emergency gas (No. 7610UC825, Rp. 69; 3,626,173 less 2,884,960, which was FCA's share after Transco's first restoration on November 13, 1975).

23. Had FCA paid the estimated surcharge on its projected winter season volumes of 3,626,173 Mcf (as of December 1, 1975), the additional cost would have been $797,758 (3,626,173 times $0.22 per Mcf).

24. Had FCA been charged incrementally for its share of the purchased emergency gas, the additional cost would have been $763,449 (741,213 times $1.03 per Mcf) plus gross receipts tax.

25. By letter of December 8, 1975, FCA acknowledged receipt of NCNG's telegram dated December 1, 1975, stated its disapproval of any purchase of emergency gas, and further stated that it would oppose any Commission action ordering a surcharge on all nonresidential users during the winter season (No. 7610UC825, Rp. 67-68). FCA continued to draw down gas as before.

26. At the time the contract with Michigan Consolidated Gas Company was made, NCNG needed the emergency gas for the winter season 1975-76 to serve high priority industrial and commercial customers. (See Appendix A, Case II.)

27. Residential customers (Priority R.1) were never expected to be even partially curtailed, even if the winter had been abnormally cold, and therefore could not have benefited from the emergency gas purchase. (See Appendix A, Case I; compare R.1 requirements of 4,726,853 Mcf with known total supplies of 10,130,260 Mcf.)

28. Even if NCNG had known with certainty of Transco's second and third restorations of flowing gas, it would have been a prudent management decision to purchase the emergency gas. (See Appendix A, Cases III and IV, and consider the effect which a colder-than-anticipated winter could have had on the supply percentages to firm industrial users, Priorities Q through M.)

29. The emergency purchase by NCNG from Michigan Consolidated enabled NCNG to serve not only Farmers Chemical but industrial and commercial customers in higher and lower priorities. (See Appendix A, Case IV.)

30. FCA operated at 100% of its gas supply requirements for the entire 1975-1976 winter season. (4,438,400 Mcf; 33 N.C.App. at 442.)

31. FCA directly benefited from the purchase of emergency gas in the amount of 243,073 Mcf (4,438,400 Mcf minus 4,195,327 Mcf). (See Appendix A, Case IV; Supplemental Brief of FCA, filed December 16, 1977, p.1.)

32. Under FCA's proposal in this docket, namely, fully rolled-in pricing at an estimated surcharge of 11.8¢ per Mcf (NCNG witness Wells; No. 7610UC825, Rpp. 73-74), the total surcharge to FCA would have been $523,731 (4,438,400 Mcf times 11.8¢ per Mcf).

33. FCA paid $580,830 in emergency gas surcharges for the 1975-76 winter season (FCA Supplemental Brief, p. 1).

34. The difference between what FCA paid under the emergency purchase surcharge and what it has been willing to pay is $57,099.

35. The base rate for natural gas to FCA was approximately $1.365 per Mcf ($1.55 minus $.185; FCA witness Borst, No. 7610UC825, Rpp. 18-19, 24-25).

36. FCA's total base billing for the 1975-1976 winter season was approximately $6,058,416 (4,438,400 Mcf times $1.365 per Mcf).

37. FCA's surcharge costs for emergency gas which enabled it to operate at 100% of requirements for the entire season amounts to 9.6% of its total base billing for the period ($580,830 divided by $6,058,416).

38. The difference between what FCA paid and what FCA was willing to pay amounts to 0.94% of FCA's total base winter season billing ($57,099 divided by $6,058,416).

39. The Transco Interim Settlement Agreement, which stipulated that the excess cost of emergency gas should be priced on a 50% rolled-in/50% incremental basis, addressed volumes and pricing arrangements between the pipeline (Transco) and its distributors, including NCNG, and in no way addressed retail pricing. The reservation clause in the Agreement explicitly limits its applicability to specific matters referred to therein.

40. The Commission's position before FPC (now Federal Energy Regulatory Commission) regarding rolled-in pricing has to do with how costs to supplement a deficient wholesale supply should be allocated among Transco's customers, the distributing companies, not how costs should be allocated by distribution companies among their classes of retail users.

Whereupon, the Commission reaches the following

CONCLUSIONS

Farmers Chemical contends the real issue in these proceedings is who shall pay for the emergency gas. There is, however, virtually no difference between the amount FCA actually paid under the surcharge and the amount FCA would have paid under its proposal of fully rolled-in pricing under FCA's definition of the issue (Finding of Fact No. 34). FCA actually paid less than it probably anticipated having to pay. (See e.g., Findings of Fact Nos. 19, 23, and 24.) This resulted because approximately 3,000,000 Mcf of restoration gas became available to the system, thereby allowing recovery of the emergency gas costs earlier and at a lower rate to all.

FCA has attempted to take what is no more than a disagreement over gas pricing and turn it into an attack on the Commission's authority to exercise its responsibility in pricing gas supply. FCA first creates the illusion that the tariffs in question constitute incremental pricing, wherein only those who receive emergency gas shall pay. Second, FCA argues it never received such gas and, third, that it therefore should pay none of the excess cost. There is nothing in the Commission's tariff approval of January 6, 1976, or in its Order affirming that decision on June 3, 1976, that even remotely suggests such a pricing arrangement. Further, FCA has offered no evidence to support its claim that it did not benefit through receipt of some emergency gas. FCA attacks Nery Exhibit 3 because it shows calculated rather than actual usage, yet FCA has offered no actual usage data to conflict with these calculations. That FCA received emergency gas is a matter of simple arithmetic. The Appendix attached hereto, which is only a compilation of information of record in this proceeding, shows clearly that when emergency gas supplies

are not considered FCA could not have received sufficient flowing gas to operate, as it did, for the entire winter season at 100%. (Finding of Fact No. 31; see also concession of FCA in Supplemental Brief that Nery Exhibit 3 shows approximately 200,000 Mcf of emergency gas distributed to FCA under the then-existing priority system.) FCA admits it was served 100% of requirements but contends this was without resort to emergency gas. Nevertheless, FCA has offered no data to show how this could have been accomplished, other than the inference that FCA is entitled to reach into NCNG's pipeline and divert only flowing gas to its plant, leaving emergency gas to other users. Case V of Appendix A reveals that FCA could have been served 100% without resort to emergency gas but not under any curtailment procedure authorized by this Commission, because such service obviously would be unduly discriminatory to all other users. Is it possible that the winter of 1975-76 was warmer than anticipated and, hence, residential volumes were freed for industrial usage? There is no evidence to this effect in the record, and even if such had been the case, it would not matter because such prospective juggling was not authorized by any Commission action in these proceedings. Carried to its logical extreme, FCA's position would require the retail pricing of natural gas based solely on hindsight, adjusting retroactively for actual consumption among thousands of customers, including those whose usage is temperature sensitive, and for volumes actually received from both regular and supplemental sources. Such a procedure would be practically impossible and, arguably, illegal.

FCA has devoted much attention in this matter to its November 6, 1977, meeting with NCNG's representatives. The Commission concludes that this meeting and any understandings reached therein are not germane to the issues in this docket (See Findings of Fact Nos. 6, 16, and 17) but has recited the facts of this meeting in its findings only to offer completeness and clarity to this record. We note, however, that the agreement as to how FCA's daily winter season requirements would be met benefited FCA by allowing FCA to receive 100% of its requirements, on a daily basis, at a time when all other industrial users were to be totally or partially curtailed. The agreement was also beneficial to all other users in NCNG's service area because FCA would only operate for approximately 48 days, that is, until January 3, 1976, after which time supplies would be reassessed and FCA thereby would be prevented from using more than its share should deeper curtailment occur, as happened the prior winter season.

With regard to FCA's other allegations, the Commission concludes that the tariffs as approved on January 6, 1976, and affirmed by Commission Order of June 3, 1976, were proper and reflected good judgment at that time, which is the real test and, even in hindsight, were proper and reflected good judgment. The Commission arrives at this conclusion by finding that even in hindsight the emergency

gas indirectly and directly benefited all customers other than residentials, and, hence, it was correct to have prescribed the surcharge to these customers (Findings of Fact Nos. 26, 27, 28, 29, 30, and 33). There is, therefore, no substance to Farmers Chemical's allegations of unfairness, discrimination, and not being in the public interest.

With regard to the allegation of "consistency" with previous Commission positions, the posture of this Commission before the Federal Power Commission is simply not germane to this case because such actions dealt with questions of supply and pricing at the Federal level, i.e., by Transco among its distribution companies in the several states along its pipeline. At question in this docket is the allocation and pricing of gas supplies at the State level, i.e., by the distribution company among its classes of users.

The Commission further concludes that procedural defects, if any, in this matter have been cured by allowing FCA to be heard fully upon reconsideration and, later, remand.

Upon reviewing this record, the Commission finds and concludes that there are just two issues, and they are as clear today as they must have been for our predecessors nearly two years ago. They are these:

1. Was NCNG's decision to purchase emergency gas for service to its customers in a time of drastic curtailment a prudent management decision? The answer is yes, and no parties to this docket contest this point. (Cf. testimony of FCA witness Borst; No. 7610UC825, Rp. 29.)

2. Was the Commission's action requiring a surcharge on volumes to all customers, except residential and public housing, to recover the excess cost of the emergency gas an unlawful action by placing an undue hardship on Farmers Chemical as alleged in its Petition for Reconsideration (item IV) or, by being unfair, inconsistent with previous Commission positions, discriminatory, not in the public interest, or procedurally defective as also alleged by Farmers Chemical in its Petition for Reconsideration (item V)? Upon review, the Commission concludes the answer is no. The financial difference between what FCA actually paid in emergency gas surcharges, $580,830, and what it would have paid under its avowed position of fully rolled-in pricing at 11.8¢ per Mcf, $523,731, is insignificant and, hence, cannot be construed as an undue hardship for a company whose normal billing for the winter season was approximately $6,058,416 (Findings of Fact Nos. 32, 33, 34, 36, 37, and 38).

A reading of this entire record reveals with absolute clarity that FCA's real intent throughout has been to convince the Commission and, subsequently, the Court, that emergency gas supplies for North Carolina should be priced

uniformly to all customers, i.e., through rolled-in pricing which does not exclude residential customers from surcharge. The Commission respects FCA's right to an opinion on natural gas pricing and respects FCA's right to promote its opinions before this Commission and the Court. But it is the responsibility of this Commission to determine the pricing of natural gas supplies for North Carolina, not the responsibility of FCA. In recent actions this Commission has adopted rolled-in pricing of supplemental natural gas supplies to include residential users. The Commission takes judicial notice of FCA's posture in those proceedings, that it favored such action but, regardless of the pricing decided by the Commission, would not accept any service for this winter season. Farmers Chemical's true problems relate to supply and demand imbalances in the fertilizer business. (See, e.g., testimony of FCA witnesses Borst and Lawrence; No. 7610UC825, Rpp. 19-20, 64.) This Commission, although repeatedly willing to assist FCA in efforts to receive assistance at the Federal level, cannot manipulate the price of gas service to FCA to the competitive disadvantage of other North Carolina customers in order to generate a more favorable profit picture for FCA.

IT IS, THEREFORE, ORDERED that the tariffs filed by NCNG on January 7, 1976, and approved by Commission Order of June 3, 1976, are hereby approved and affirmed in all respects.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of February, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

DOCKET NO. G-21, SUB 177
DOCKET NO. G-21, SUB 171

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Docket No. G-21, Sub 177: Application of North Carolina Natural Gas Corporation for an Adjustment of its Rates and Charges Docket No. G-21, Sub 171: Application for Approval of New Depreciation Rates Based Upon Depreciation Study	ORDER SETTING RATES

HEARD IN: Council Chambers, Greenville City Hall, Greenville, North Carolina, on Wednesday, March 29, 1978, at 10:00 a.m.

Council Chambers, City Hall, 234 Greene Street, Fayetteville, North Carolina, on Thursday, March 30, 1978, at 10:00 a.m.

The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on March 31, 1978, April 4-7, 1978, and April 17-18, 1978.

BEFORE: Commissioners Edward B. Hipp, Presiding, Leigh H. Hammond, and John W. Winters

APPEARANCES:

For the Applicant:

Donald W. McCoy, Alfred E. Cleveland, McCoy, Weaver, Wiggins, Cleveland and Raper, Attorneys at Law, P.O. Box 2129, Fayetteville, North Carolina 28302
For: North Carolina Natural Gas Corporation

For the Intervenors:

Lewis B. Meyer, Lucas, Rand, Rose, Meyer, Jones & Orcutt, Attorneys at Law, P.O. Box 2008, Wilson, North Carolina 27893

James N. Horwood, David R. Straus, Spiegel and McDiarmid, Attorneys at Law, 2600 Virginia Avenue, N.W., Washington, D.C. 20037
For: The municipalities of Wilson, Rocky Mount, Greenville, and Monroe

Charles C. Meeker, William H. McCullough, Hugh Stevens, Jr., Sanford, Cannon, Adams and McCullough, Attorneys at Law, P.O. Box 389, Raleigh, North Carolina 27602

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

Henry S. Manning, Jr., Joyner & Howison, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602
For: Aluminum Company of America and Clark Equipment Company

K. Jacqueline Bernat, Attorney at Law, Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, Pennsylvania 15219
For: Aluminum Company of America

Thomas R. Eller, Jr., Attorney at Law, 104 Finley Building, 3301 Executive Drive, Raleigh, North Carolina 27609

For: North Carolina Textile Manufacturers Association

For the Using and Consuming Public:

Robert F. Page, Paul L. Lassiter, Assistant Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991 - Dobbs Building, Raleigh, North Carolina 27602

Jesse C. Brake, Special Deputy Attorney General, Richard L. Griffin, Assistant Attorney General, P.O. Box 629, Raleigh, North Carolina 27602

BY THE COMMISSION: On November 22, 1977, North Carolina Natural Gas Corporation (N.C.N.G., the Applicant, or the Company) filed an application with this Commission for authority to adjust and increase its rates and charges for retail natural gas service in North Carolina. The Applicant proposed to make the requested rate adjustments effective and applicable to all gas consumed on and after December 22, 1977. Prior to the general rate increase application, N.C.N.G. had filed, on June 22, 1977, an application pursuant to Commission Rule R6-80. Said application (in Docket No. G-21, Sub 171) sought Commission approval for the Company to change its depreciation rates based upon a study performed for N.C.N.G. by American Appraisal Company. The Applicant proposed to make the new depreciation rates effective as of October 1, 1977. At the time the general rate increase application was filed, the Commission had not taken final action on the proposed new depreciation rates.

The Commission, being of the opinion that these two matters should be consolidated for public hearing, issued an order setting investigation and hearing, suspending proposed rates and requiring public notice on December 21, 1977. By the terms of such order: (1) The general rate increase application (Docket No. G-21, Sub 177) was consolidated for hearing with the increased depreciation rate application (Docket No. G-21, Sub 171); (2) the application in Docket No. G-21, Sub 177 was declared to be a general rate case pursuant to North Carolina General Statute 62-137; (3) the consolidated dockets were set for public hearings at the times, dates, and places noted above - including two days of out of town hearings for the purpose of receiving testimony by interested members of the using and consuming public; (4) the test period for use by all parties in the proceeding was declared to be the twelve-month period ending June 30, 1977; (5) the Company was ordered to publish in newspapers having general coverage in its service area and to furnish to each customer through billing insert a notice of the proposed hearings on the application; (6) intervenors and other parties having an interest in the matter were required to file their interventions in accordance with the Commission's Rules and Regulations.

On December 15, 1977, the Public Staff, by and through its Executive Director, Hugh A. Wells, filed notice of intervention on behalf of the using and consuming public. Such intervention was recognized in the Commission's Order Setting Hearing issued on December 21, 1977. The Attorney General also filed a notice of intervention on behalf of the using and consuming public on November 29, 1977, which intervention was recognized by Commission order issued on January 25, 1978. Motions for leave to intervene herein were filed on behalf of CF Industries, Inc., on December 29, 1977, and on behalf of the Municipalities of Wilson, Rocky Mount, Greenville, and Monroe on January 18, 1978. Such motions were allowed by Commission order issued January 25, 1978. A motion for leave to intervene was filed on behalf of Aluminum Company of America (Alcoa) on February 17, 1978, which motion was allowed by Commission order issued on February 21, 1978. On March 14, 1978, a motion for leave to intervene was filed on behalf of the North Carolina Textile Manufacturers Association, Inc., which motion was allowed by Commission order issued on March 16, 1978. Thereafter, on March 17, 1978, a petition for leave to intervene was filed on behalf of Clark Equipment Company and such petition was allowed by Commission order issued on March 22, 1978.

Between the time of the Commission's order setting this matter for hearing and the actual beginning of public hearings, several motions were filed by various parties concerning discovery, production of documents, extensions of time to file testimony and other procedural matters. Such motions and the Commission's orders in response thereto are reflected in the Clerk's official files of this proceeding.

The matter came on for hearing as scheduled in the Commission's Order Setting Hearing, with the Company having the burden of proof in showing that its present rates were unjust and unreasonable and that its proposed rates were just and reasonable.

The Company offered the testimony of the following five witnesses: Frank Barragan, Jr., President and Director of N.C.N.G.; Calvin B. Wells, Vice President and Chief Accounting Officer of N.C.N.G.; Charles E. Jerominski, Supervisor and Appraiser, American Appraisal Company; R.A. Ransom, Consulting Engineer; and Eugene W. Meyer, Vice-President of Kidder, Peabody & Company, Incorporated.

The Public Staff offered the testimony of the following eight witnesses: Dr. Wesley A. Magat, a Professor in the Graduate School of Business Administration at Duke University, Consultant of ICF, Incorporated; Dr. Colin C. Blaydon, Professor of Policy Sciences and Business Administration at Duke University and a Principal of ICF, Incorporated; Daniel M. Stone, Utilities Engineer, Gas Engineering Division of the Public Staff; William L. Dudley, Staff Accountant, Public Staff Accounting Division; William F. Watson, Staff Economist, Economics and Research Division

of the Public Staff; M.D. Coleman, Director of Accounting, Public Staff Accounting Division; and Donald E. Daniel, Assistant Director of Accounting, Public Staff Accounting Division.

The Municipal Intervenors offered the direct testimony of the following witnesses: Fred R. Saffer, Executive Engineer and Associate, R.W. Beck and Associates; Jacob Pous, Senior Engineer, R.W. Beck and Associates; Albert E. Clark, Senior Analyst, R.W. Beck and Associates; Dr. Caroline M. Smith, Senior Economist, J.W. Wilson and Associates, Inc.; and Dr. Jann W. Carpenter, Director of the Economic Services Department, R.W. Beck and Associates.

CF Industries, Inc., offered the testimony of Thomas R. Hughes, Senior Consultant of H. Zinder and Associates, Inc.

Additionally, at the public hearings held in Greenville, North Carolina, CF Industries offered the testimony of four public witnesses from the Hertford County area. These witnesses were the following - Randy V. Britton, Chairman of the Hertford County Commissioners; Merrill Evans, Mayor of the Town of Ahoskie; David E. McCaw, Chairman of the Hertford County Industrial Development Commission; and Roberts H. Jernigan, Jr., Representative of the Fifth District to the North Carolina General Assembly, which includes Hertford County.

Aluminum Company of America offered the testimony of Maynard F. Stickney, Chief Industrial Engineer of Alcoa's Badin Works.

Mrs. Peggy Helms, a Goldsboro resident and a member of the using and consuming public, appeared and offered testimony during the course of hearings in Raleigh.

Based upon the foregoing, the testimony and exhibits offered during the hearings, the Oral Arguments at the conclusion of the hearings, the briefs and proposed orders submitted by the parties, and the Commission's files and records in the matter, the Commission now reaches the following

FINDINGS OF FACT

1. That N.C.N.G. is a Delaware Corporation which has been authorized to do business and is doing business in North Carolina as a franchised public utility providing natural gas service in 29 counties and 59 communities in North Carolina.

2. That N.C.N.G. is lawfully before this Commission for a determination of the justness and reasonableness of its proposed rates and charges pursuant to Chapter 62 of the General Statutes of North Carolina.

3. That the test period established by the Commission and utilized by all parties in this proceeding is the twelve months ended June 30, 1977. The annual increase in revenues sought by N.C.N.G. under its proposed rates as filed in this proceeding is approximately $4,607,748.

4. That N.C.N.G. 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 supply of natural gas.

5. That the original cost of N.C.N.G.'s plant in service used and useful in providing natural gas service in North Carolina is $63,238,310. From this amount should be deducted the accumulated depreciation associated with the original cost of this plant of $18,705,845 resulting in a reasonable, original cost less depreciation or a net gas plant in service of $44,532,465. From this amount, $46,475, representing customer advances for construction should also be deducted. N.C.N.G.'s gas utility plant, net of customer advances, is $44,485,990.

6. That the reasonable replacement cost less depreciation of N.C.N.G.'s plant in service which is used and useful in providing natural gas service to customers, in North Carolina is $107,375,467.

7. That the fair value of N.C.N.G.'s plant used and useful in providing natural gas service in North Carolina should be derived by giving 54.13% weighting to the reasonable original cost less depreciation of N.C.N.G.'s plant-in-service and 45.87% weighting to the replacement cost less depreciation of N.C.N.G.'s utility plant. By this method, using the depreciated original cost of $44,532,465 and the depreciated replacement cost of $107,375,467, the Commission finds that the fair value of N.C.N.G.'s utility plant devoted to gas service in North Carolina is $73,358,550. This fair value includes a reasonable fair value increment of $28,826,085.

8. That the reasonable allowance for working capital for N.C.N.G. is $2,196,984.

9. That the fair value of N.C.N.G.'s plant-in-service to customers within the State of North Carolina of $73,358,550 plus the reasonable allowance for working capital of $2,196,984 less customer advances for construction of $46,475 and cost free capital of $6,051,787, yields a reasonable fair value of N.C.N.G.'s property used and useful to North Carolina Customers (rate base) of $69,457,272.

10. That the Company's test year operating revenues after appropriate accounting and engineering adjustments, under present rates are approximately $39,897,357, and under the Company's proposed rates would have been approximately $44,505,105.

11. That the depreciation rates proposed by the Company in Docket No. G-21, Sub 171, are reasonable and proper, with the exception of the 6.37% annual rate proposed for Account 380 - Services. The proper annual depreciation rate for Account 380 is 4.56%.

12. That the appropriate level of the Company's operating revenue deductions (or expenses) under present rates after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $37,078,160 which includes the amount of $1,909,961 for actual investment currently consumed through actual reasonable depreciation.

13. That the capital structure which is proper for use in this proceeding is the following:

Item	Percent
Long-term debt	54.13%
Common equity	45.87%
Total	100.00%

14. 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 resulting fair value capital structure is as follows:

Item	Percent
Long-term debt	31.67%
Common equity	68.33%
Total	100.00%

15. That the Company's proper embedded cost of debt is 7.94%, using long-term debt of $24,930,000. The fair rate of return which should be applied to the fair value of N.C.N.G.'s property (or rate base) is 5.87%. This return on N.C.N.G.'s rate base of 5.87% will allow the Company the opportunity to earn a return on its fair value equity of 4.91%, after recovery of the embedded cost of debt. A return of 4.91% on fair value equity results in a return of 12.51% on original cost common equity. Such returns on rate base, fair value equity and common equity are just and reasonable.

16. N.C.N.G.'s pro forma return on the fair value of its property (or rate base) at the end of the test year is approximately 4.06% which is 1.81% less than the Commission has determined to be just and reasonable. Therefore, in order to earn the level of returns which the Commission finds to be just and reasonable, N.C.N.G. should be allowed to increase its rates and charges so as to produce an additional $2,756,552 based on operations during the test year. The Commission finds that, given efficient management, this amount of additional gross revenue dollars

will afford the Company a fair 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, both to the Company and to its customers.

17. That the schedule of rates attached hereto as Appendix A comport with the general rate design guidelines set forth in this Order and will produce additional annual revenues of $2,756,552; these rates are just and reasonable and do not discriminate between the various classes of customers or between customers within the various classes of customers.

18. That the curtailment tracking adjustment formula or rate (CTR) heretofore approved for use by N.C.N.G., and modified in various prior proceedings before the Commission, is a just and reasonable ratemaking tool or method protecting N.C.N.G. from wide fluctuations in the level of curtailment from its pipeline supplier and of protecting N.C.N.G. customers from the uncertainties of continual rate cases, which would be required without the CTR., The new base margin, established here, which is appropriate for future CTR filings is $14,851,041 (the difference between test year revenues, less associated gross receipts taxes and test year cost of gas)., The new base period supply volumes which are appropriate for use in future CTR filings are 206,469,538 therms.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

The evidence for these findings is contained in the verified application, the Commission's Order Setting Hearing, the testimony of the public witnesses, the testimony and exhibits of Company witnesses Barragan and Wells, and the testimony and exhibits of Public Staff witnesses Dudley and Nery. These findings are essentially informational, procedural and jurisdictional in nature and were, for the most part, uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence for this finding is found in the verified application, the testimony and exhibits of Company witness Wells, the testimony and exhibits of Public Staff witness Dudley, and the testimony and exhibits of Municipal Intervenor witness Saffer. The amounts presented were as follows:

	Company Witness Wells	Public Staff Witness Dudley	Municipal Intervenor Witness Saffer
Gas utility plant in service	$ 63,238,310	$ 63,238,310	$ 63,215,675
Accumulated depreciation	(18,876,570)	(18,612,557)	(18,872,690)
Net plant in service	$ 44,361,740	$44,625,753	$ 44,342,985
Customer advances for construction	(46,475)	(46,475)	(46,475)
Net plant in service less customer advances for construction	$ 44,315,265	$ 44,579,278	$ 44,296,510

Each witness agreed that customer advances for construction amounting to $46,475 should be deducted after the calculation of net utility plant, since such funds were provided by customers and not by the utility investors.

Both Company witness Wells and Public Staff witness Dudley presented $63,238,310 as the original cost of gas utility plant in service, while Municipal Intervenor Witness Saffer presented $63,215,675 or $22,635 less than the other two witnesses. This $22,635 represented the cost of utility plant leased to others. On cross-examination, (TR., Vol. 10, p. 151) witness Saffer agreed that it was proper to include this amount of plant leased to others in plant in service if the revenues associated with this plant were included in operating revenues. He concluded that Public Staff witness Dudley's exhibits including this plant and associated revenues were consistent with his opinion as to the proper treatment of this item.

Each witness presented a different amount for accumulated depreciation. Company witness Wells computed an end-of-period accumulated depreciation balance of $18,876,570 which was based on Company witness Jerominski's depreciation rate recommendations in this proceeding. This accumulated depreciation balance resulted from Mr. Well's adjustment of depreciation expense using the previously mentioned rate recommendations. Mr. Saffer's accumulated depreciation balance differed from Mr. Well's only in the balance related to utility plant leased to others of $3,880 ($18,876,570 - $18,872,690 = $3,880). However, Mr. Saffer implicitly accepted the Applicant's accumulated depreciation balance because he agreed on cross-examination (TR., Vol. 10, p. 151) that $22,635 of utility plant leased and associated accumulated depreciation of $3,880 should be included in the cost of plant in service. Public Staff

witness Dudley presented a revised accumulated depreciation balance of $18,612,557 in conjunction with his additional testimony (TR., Vol. 9, p. 103). His revised testimony included additional depreciation expense and accumulated depreciation relating to completed construction which had been included in plant in service. This depreciation expense had been omitted by all three witnesses in their prefiled testimony. However, the primary difference in accumulated depreciation as calculated by Company witness Wells and Public Staff witness Dudley, results from witness Dudley's use of the depreciation rate recommendation by Public Staff witness Nery regarding Account 380 - Services (see Evidence and Conclusions for Finding of Fact 11, infra).

The Commission finds that the cost of gas utility plant in service to be used in this proceeding is $63,238,310 which includes $22,635 of utility plant leased to others. The inclusion of the cost of this leased plant is consistent with the inclusion of the net revenues applicable to this plant as presented by Public Staff witness Dudley. The Commission also finds that customer advances for construction of $46,475 are a proper deduction after the computation of net utility plant. The Commission has also found, in Evidence and Conclusions for Finding of Fact No. 11, that the depreciation rate recommendations of Company witness Jerominski are proper with the exception of the depreciation rate applicable to Account 380 - Services. Depreciation expense and accumulated depreciation adjustments reflected herein have been calculated consistent with the Commission's findings in this regard (see Evidence and Conclusions for Finding of Fact 11, infra). Therefore, the Commission concludes that the net utility plant to be used in this proceeding is $44,532,465, composed of $63,238,310 of utility plant less $18,705,845 of accumulated depreciation. The net utility plant less $46,475 of customer advances for construction is $44,485,990.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Jerominski testified with respect to his determination of the Net Trended Original Cost valuation of N.C.N.G.'s properties used and useful in providing gas service to North Carolina as of June 30, 1977. Witness Jerominski calculated a trended original cost, using primarily the Handy-Whitman Index. He reduced his trended cost by a condition percent depreciation calculated on the basis of (a) physical inspection, (b) present worth, and (c) other obsolescence factors. None of the intervenors provided testimony on replacement cost analysis. The Commission, therefore, accepts the depreciated replacement cost figure of $107,375,467 calculated by Company Witness Jerominski.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Having determined the appropriate original cost less depreciation or net plant in service to be $44,532,465 and the reasonable estimate of net replacement cost to be $107,375,467, the Commission must determine the fair value of N.C.N.G.'s net plant in service. Company witness Jerominski testified to a fair value weighting based on the capital structure of the Company. The Commission is inclined to utilize this methodology since evidence has been presented in some past rate cases which support it. While this methodology may not be suitable for all cases, the Commission is of the opinion that it is reasonable under all the facts in this case. The Commission feels that some reasonable weighting must be given to net replacement cost for the protection of N.C.N.G.'s equity holders and some reasonable weighting must be given to the original cost for the protection of its customers. The Commission is of the opinion, and thus concludes, that a weighting of 45.87% should be given to net replacement cost and that a weighting of 54.13% should be given to the net original cost in calculating the fair value of N.C.N.G.'s plant in service. By weighting the original cost less depreciation of $44,532,465 by a 54.13% factor and the replacement cost less depreciation of $107,375,467 by a 45.87% factor, the fair value of N.C.N.G.'s utility plant in service in North Carolina is $73,358,550. This fair value determination includes a reasonable fair value increment of $28,826,085.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Testimony regarding the amount of the allowance for working capital was presented by the following witnesses: Company witness Wells (direct and rebuttal), Public Staff witnesses Dudley (direct), and Coleman (surrebuttal), and Municipal Intervenor witness Saffer. The following tabular summary shows the amounts presented by each witness:

	Company Witness Wells	Public Staff Witnesses Dudley & Coleman	Municipal Intervenor Witness Saffer
Cash	$ 736,713	$ 712,944	$ -
Materials and supplies	1,946,927	1,946,927	1,928,310
Average pre-payments	71,032	63,658	82,175
Compensating bank balances	1,256,000	1,256,000	-
Average tax accruals	(67,273)	(1,670,244)	-
Customer deposits	-	(348,867)	(352,613)
Working capital allowance	$3,943,399	$1,960,418	$1,657,872

The amounts shown above by the Public Staff witnesses were presented by Public Staff witness Dudley in his additional testimony and revised exhibits. (TR., Vol. 9, p. 102). It should also be noted that Municipal Intervenor witness Saffer's exhibits reflected $2,010,485 ($1,928,310 + $82,175) as working capital, but that he considered elsewhere in his testimony customer deposits as rate payer supplied funds. His customer deposits balance is presented here in order that the amounts claimed by each witness can be shown on a comparable basis.

The Commission will now summarize the testimony presented regarding the allowance for working capital.

Basically, the "formula" approach was used by the Company and by the Public Staff, while the Municipal Intervenors computed working capital employing some elements of the "formula" approach coupled with a generalized lead-lag study of revenues and expenses. Company witness Wells' and Public Staff witness Dudley's computations using the "formula" differed in two respects. Both witnesses included a tax offset in their computations. Company witness Wells computed 1/8 of federal tax expense ($67,273) as an offset while Public Staff witness Dudley utilized total average tax accruals ($1,670,244) in his additional testimony and revised exhibits (TR., Vol. 9, p. 103) as the offset. Witness Wells did not reduce his working capital allowance by the amount of customer deposits, while witness Dudley did reduce his working capital allowance by these customer-supplied funds as he stated in his direct testimony (TR., Vol. 9, p. 113). Witness Saffer included customer deposits as customer supplied funds, but did not include any compensating bank balances in his computation of working capital. His disallowance of compensating balances, as stated in his direct testimony, (TR., Vol. 10, p. 106) was not based on any investigation into N.C.N.G.'s lines of credit and associated compensating balance requirements.

Witness Saffer delivered testimony on his lead-lag study, which purported to show that there was not a need for a cash component of the allowance for working capital. Company witness Wells presented rebuttal testimony concerning witness Saffer's lead-lag study.

Witness Dudley testified that he revised his working capital requirement after having prepared a balance sheet analysis as a verification of the reasonableness of his working capital requirement computed by using the "formula" method. He stated that his revised working capital requirement was necessary due to an initial misapplication of the formula method. Company witness Wells' rebuttal testimony concerned the inapplicability of a balance sheet analysis to the determination of working capital. Public Staff witness Coleman's surrebuttal testimony dealt with the objections raised by witness Wells concerning the balance sheet analysis and offered additional support for witness Dudley's revised working capital requirement by comparing

total investor supplied capital with the total assets of the Company.

The Commission will now discuss the allowance for working capital and its significance in the ratemaking process. Working capital for ratemaking purposes represents the capital which the debt and equity investors have provided in excess of their investment in utility plant in service in order to meet the Company's day-to-day operating needs and to finance certain deferred costs applicable to utility operations. The purpose for including a working capital allowance in the rate base is to ensure that the Company has an opportunity to earn a return on all capital provided by the debt and equity investors. There are three primary methods used to determine an appropriate working capital allowance: a lead-lag study, a balance sheet analysis, and the "formula" method. Working capital, regardless of the method of computation, is not subject to precise determination. However, the lead-lag study, when properly prepared, is the most accurate method of determining the working capital allowance. The balance sheet analysis is less accurate than a proper lead-lag study, and the formula method (the shortest of the three methods) is the least accurate.

There is ample evidence in the record that a proper lead-lag study was not performed in this case. Witness Saffer acknowledged on cross-examination (TR., Vol. 10, pp. 154-155) that he did not analyze the actual payment and collection practices of N.C.N.G. and, therefore, his study is fundamentally deficient. Company witness Wells' rebuttal testimony also recognized that Witness Saffer's lead-lag study included assumptions and errors and was not based on N.C.N.G.'s actual payments and collection experience. Witness Wells also offered into evidence a lead-lag study, but stated (TR., Vol. 11, p. 151) that it should not be used in this case because it was not based on an extensive review of the Company's transactions. From this evidence, the Commission concludes that a proper lead-lag study was not performed in this case, and accordingly, that the working capital requirement must be determined from other evidence presented.

Company witness Wells recommended (TR., Vol. 11, p. 122) that the Commission apply the "formula" method to determine working capital in this case. His application of the "formula" method, as we have noted, differed in two respects from Public Staff witness Dudley's. Although Mr. Wells' prefiled exhibits did not reflect a deduction for customer supplied funds, he agreed on cross-examination (TR., Vol. 2, p. 45) that N.C.N.G. did not oppose a reduction of working capital by the amount of customer deposits ($348,867) reflected in Public Staff witness Dudley's exhibits. Company witness Wells reduced his working capital requirement by one-eighth of calculated federal income tax expense, but he offered no explanation as to why this computation was proper. Public Staff Witness Dudley reduced

the working capital allowance by total average tax accruals and stated on cross-examination (TR., Vol. 9, pp. 125-126) that working capital requirements calculated using total average tax accruals had been approved by the Commission in other rate proceedings including, among others, the Mid-Carolina Telephone case (Docket No. P-118, Sub 7).

The working capital requirement computed by Public Staff witness Dudley was further supported by witness Coleman in his surrebuttal testimony.

The Commission has considered all the evidence presented and finds that, under all the facts and circumstances of this case, the "formula" method should be used in the computation of the working capital requirement. The Commission must decide whether the working capital allowance computed by Company witness Wells or by Public Staff witness Dudley produces a more representative working capital requirement. Witness Wells did not provide any justification for the reasonableness of his method of applying the "formula" in this case. However, witnesses Dudley and Coleman have used a balance sheet analysis in support of the reasonableness of the Public Staff's $1.9 million working capital requirement. Therefore, the Commission concludes that the "formula" method of computing working capital, as applied by the Public Staff, in this case, is appropriate. The Commission, however, will recompute working capital due to a modification of operations and maintenance expense (specifically, group insurance costs) found proper in Evidence and Conclusions for Finding of Fact No. 12. Additionally, the Commission will remove from the public staff's calculation of average federal income tax accruals "deferred income tax" related to unbilled revenues. By definition it is apparent that the company does not have use of these funds. The following calculation sets forth the amount of working capital found proper by the Commission:

1/8 of operations and maintenance expense (1/8 X $5,644,114)	$ 705,514
Materials and supplies	1,946,927
Average prepayments	63,658
Compensating bank balances	1,256,000
Average tax accruals	(1,426,248)
Customer deposits	(348,867)
Allowance for working capital	$2,196,984

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The fair value of the Company's property used and useful consists of the fair value of plant ($73,358,550) previously determined in Finding of Fact No. 7, plus the reasonable allowance for working capital $2,196,984 previously determined in Finding of Fact No. 8, less customer advances

for construction of $46,475 (see Evidence and Conclusions for Finding of Fact No. 5), less $6,051,787 of accumulated deferred income taxes representing cost-free funds.

The evidence for our findings on fair value of plant and working capital is contained in the Evidence and Conclusions for Findings of Fact Nos. 5-8. In the Evidence and Conclusions for Finding of Fact No. 5, we noted that all parties proposed to remove customer advances for construction of $46,475 from the rate base. We illustrated the impact of this amount previously, but did not remove it from original cost in calculating the fair value of plant in service. However, in order that the Company not be allowed to earn a return on these customer provided funds, the amount of $46,475, must be deducted in calculating the fair value of N.C.N.G.'s property used and useful or rate base. The Commission thus concludes that fair value of plant plus working capital should be reduced by $46,475 representing customer advances for construction.

Testimony regarding the proper ratemaking treatment of deferred income taxes was presented by Public Staff witnesses Dudley (direct) and Daniel (surrebuttal), Company witness Wells (direct and rebuttal) and Municipal Intervenor witness Saffer. The Public Staff and Municipal Intervenor witnesses recommended that the accumulated deferred income taxes be treated as cost-free funds to the Company which were provided by the ratepayer, and as such, should be deducted from the fair value of plant in service plus working capital in the determination of the fair value of property used and useful or rate base.

Company witness Wells recommended that the cost-free funds be included in the capital structure at zero cost. Witnesses Dudley, Daniel, and Saffer testified that the accumulated deferred income taxes were created by N.C.N.G.'s utilization of accelerated depreciation income tax provisions of the Internal Revenue Code. They noted that the deferred tax credits were provided by the ratepayers' paying rates calculated on the basis of straight line depreciation while the Company was paying income taxes based on the higher accelerated depreciation deduction. Therefore, the customers have paid in rates which are based on a higher income tax liability than that which N.C.N.G. has actually incurred. The result is that N.C.N.G. has the use of these cost-free funds provided by the ratepayers until such time as N.C.N.G. actually has to pay the income taxes which were previously deferred. The ratepayer should not be required to pay in these funds to the Company prior to the time they are required for actual income tax expense and also pay a return on them. Deducting the amount of these deferred taxes from the fair value of plant in service plus working capital gives the ratepayer the benefit of having provided these funds to the Company.

Company witness Wells recommended that the deferred income taxes be included in the capital structure at zero cost and

that the resulting calculated capitalization ratios form the basis for the allocation of the rate base. His suggested treatment would have allocated a portion of the deferred taxes to nonutility property and to construction work in progress. Public Staff witness Daniel testified (TR., Vol. 12, p. 87) that this treatment would allocate a disproportionate amount of deferred income taxes to nonutility operations.

Witnesses Dudley, Daniel, and Saffer stated that, if any of these deferred income taxes were actually related to nonutility investment, it would be proper to reduce the $6,051,787 balance of deferred income taxes by the amount of these taxes. However, it was their opinion that the remaining amount of these deferred taxes should be deducted from the rate base.

Both witness Dudley (TR., Vol. 10, p. 9) and witness Saffer (TR., Vol. 10, p. 154) stated that, since there was no separate accounting by N.C.N.G. of any deferred taxes applicable to nonutility property, they concluded that none of these taxes were applicable to nonutility property. Therefore, both of these witnesses concluded that $6,051,787 was the proper deduction from rate base for this item of customer supplied capital.

Company witness Wells testified (TR., Vol. 2, p. 75) that it would . . . "be difficult to determine the split between utility and nonutility, if at all possible." The Commission feels that the record does not reflect any material amount of deferred taxes which are, in fact, applicable to nonutility property, and, therefore, concludes that $6,051,787 should be deducted from the fair value of plant in service plus working capital in determining the rate base appropriate for use in this proceeding.

Municipal Intervenor witness Saffer proposed that the balance in the allowance for doubtful accounts be treated as customer supplied capital in the manner similar to deferred income taxes. The Commission concludes that the allowance for doubtful accounts balance has already been appropriately considered in the determination of the allowance for working capital found reasonable in Evidence and Conclusions for Finding of Fact No. 8 and that no separate deduction of this item in the calculation of rate base is required.

Based on the foregoing, the Commission concludes that the fair value of N.C.N.G.'s utility property used and useful in providing service to customers in North Carolina (or rate base) is $69,457,272 ($73,358,550 + $2,196,984 - $46,475 - $6,051,787 = $69,457,272).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding of fact is contained in the testimony and exhibits of Company witnesses Wells and Ransom, Public Staff witness Nery, and Municipal Intervenor

witness Pous. Wells Appendix I and Ransom Exhibit IV, Schedule L show the annual revenues of $39,888,948 adopted by the Company for test year operations under present rates. This same amount is reflected on Pous Exhibits MI-2A and MI-2B. Nery Exhibit No. 5 shows annual revenues for test year operations under present rates of $39,893,167 adopted by the Public Staff for use in this proceeding.

Wells Appendix I and Ransom Exhibit IV, Schedule L, show annual revenues based on test year operations under the Company's proposed rates of $44,501,541. The difference between the $44,501,541 and the $39,888,948 shown on the Company's exhibits represents the proposed increase of $4,612,593 which N.C.N.G. seeks in this proceeding. Nery Exhibit 5 shows revenues of $44,500,915 which the Public Staff contends would be produced by the Company's proposed rates applied to test year operations.

Due to adjustments which the Commission has made heretofore to original cost net investment, working capital and rate base, and other adjustments required hereafter to test year expenses, capital structure, rate of return and revenue requirement, the Commission is of the opinion that it would be consistent and reasonable to adopt the revenues under present and proposed rates recommended by the Public Staff. The difference between those recommended by the Staff and the ones recommended by the Company are insignificant and immaterial.

The Commission, therefore, concludes that test year revenues under present rates are $39,897,357, and that such revenues, using the rates proposed by the Company, would have been $44,505,105.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

On June 22, 1977, pursuant to Commission Rule R6-80, the Company filed an application seeking approval of a revision in its depreciation rates based on a depreciation study performed by American Appraisal Company. The Company proposed that the new rates become effective October 1, 1977. The Commission did not approve the requested depreciation rates pending investigation of the application. In Docket No. G-21, Sub 177, the Company included test year depreciation expense based on the G-21 Sub 171, depreciation rates. The Commission consolidated G-21, Sub 171, with the Docket No. G-21, Sub 177, General Rate Increase Application, in its Order dated December 21, 1978.

The evidence for this finding is contained in the testimony and exhibits of Company witnesses Jerominski and Wells and Public Staff witnesses Nery and Daniel. Company witness Jerominski and Public Staff witness Nery agree on depreciation rates for all accounts with the exception of Account 380 - Services.

Company witness Jerominski proposes a 6.37% annual depreciation rate for Account 380, while Public Staff witness Nery proposes a 3.61% annual depreciation rate for this account. Both witnesses propose a useful life of thirty-five (35) years for the Services account, and both conclude that the gross salvage value is zero. Company witness Jerominski proposes a cost of removal equal to 100% of the original cost of the services remaining at September 30, 1976. Witness Jerominski based his 100% cost of removal on the 106% cost of removal actually experienced for the year ended September 30, 1976, and a nine year average cost of removal equal to 85% of the cost of assets retired. These cost of removal percentages are derived by comparing the current cost of removal to the original cost of the assets retired.

On cross-examination (TR., Vol. II, p. 169) Mr. Jerominski listed the retirement history for Account 380 - Services beginning in 1954 and continuing through 1976. Retirements in this account amounted to $303,418 for the 18 year period.

Public Staff witness Nery proposed a cost of removal equal to 24% of the original cost of Services. Witness Nery obtained his cost of removal by relating the average original unit of Services currently in use to the average cost of removal over the four year period ending September 30, 1976.

Company witness Wells testified on rebuttal that if the depreciation rate of 3.61% recommended by Mr. Nery is adopted, then the Company will not be adequately compensated for the depreciation of its capital investment in Services (TR., Vol. 11, p. 125).

Public Staff witness Daniel testified on surrebuttal that for the five years ended September 30, 1977, the Company, through its present rates, has recovered $525,000 allocable to cost of removal of Services while incurring only $155,000 in actual cost of removal, producing an excess of $370,000. He further testified that the 3.61% rate proposed by Mr. Nery will allow the Company to recover approximately $83,000 annually for cost of removal, and that this recovery rate would more than adequately compensate the Company for cost of removal based on recent history.

The only point at issue here is the cost of removal. Company witness Jerominski's proposal relates the current cost of removal to the original unit cost of Services which have already been retired.

Public Staff witness Nery's proposal, which relates the current cost of removal to the average original cost of assets to be retired in the future, provides an estimate of cost of removal that is more reflective of current costs rather than prospective costs. It is, of course, the prospective cost of removal that must be considered in establishing depreciation rates, since according to the

testimony of both Mr. Jerominski and Mr. Nery the average remaining life of the assets in question is 27.5 years.

The Commission, after carefully considering the evidence presented, concludes that the depreciation rates proposed by the Company are proper, with the exception of Account 380 - Services, for which the Commission concludes the proper annual rate to be 4.56%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Testimony concerning the level of operating revenue deductions to be used as a basis for the setting of rates in this proceeding was presented by Company witness Wells (direct and rebuttal) and by Public Staff witnesses Dudley (direct) and Nery. Witness Dudley's prefiled testimony was modified by his additional testimony and revised exhibits (TR., Vol. 9, p. 103). In addition, the prefiled direct testimony of Municipal Intervenor witness Pous was copied into the record, but he was not cross-examined on this testimony. The Commission has reviewed the testimony of witness Pous and concludes that, since no issues were addressed in his testimony that were not addressed by Public Staff witness Dudley, it will not be necessary to specifically discuss the adjustments recommended by witness Pous in our determination of operating revenue deductions in this proceeding. Therefore, the Commission will discuss the differences in the amounts presented by Company witness Wells and by Public Staff witnesses Dudley and Nery and will compute from these amounts the proper level of operating revenue deductions upon which to base its determination of rates in this proceeding.

The following summary shows the amounts of operating revenue deductions claimed by each witness:

Item	Company Witness Wells	Public Staff Witnesses Dudley & Nery
Purchased gas	$ 25,319,886	$ 25,245,296
Operations and maintenance expense	5,893,705	5,703,554
Depreciation	2,080,686	1,816,673
Taxes other than income	3,387,837	3,250,827
Income taxes - state and federal	591,283	1,022,313
Total operating revenue deductions	$ 37,273,397	$ 37,038,663

The first item of difference in the operating revenue deductions shown above is the cost of purchased gas.

Company witness Wells shows an adjusted test year cost of gas of $25,319,886 on his Exhibit II-A, Schedule 9. Public Staff Witness Nery testified (TR., Vol. 8, p. 97) that he agreed with the Company's calculation of cost of gas,

subject to two adjustments. Mr. Nery eliminated a negative ($25,410) of Company used gas which was improperly included in the cost of gas calculation by N.C.N.G. Mr. Nery also eliminated an item labeled "Emergency Storage Service" in the amount of $100,000. These two adjustments result in a combined reduction of $74,590 from the Company's proposed cost of gas. The cost of gas thus proposed by the Staff, based on adjusted test year operations, is $25,245,296. These amounts are shown on Dudley Exhibit 1, Schedule 3-2.

The Public Staff contended that the $100,000 "Emergency Storage Service" item would not be required in the future, since N.C.N.G. has now arranged for substantial volumes of WSS storage in Transco's Washington Storage Field; i.e., 2,141,720 dekatherms (dt) in 1977-1978 and an additional amount of 1,000,000 dt in 1978-79. Under the new storage contract, N.C.N.G. has requested that Transco deliver the 1,000,000 dt in the amount of 500,000 dt for 1978-79 and the balance in 1979-80. On rebuttal, Company Witness Wells testified (TR., Vol. 11, p.124) that the Company has reason to believe that this temporary or emergency storage service, which has been used for the last few years, will be needed in the future and, thus, the $100,000 is a representative ongoing level for such cost.

Consistent with our findings and conclusions on test year revenues, the Commission is of the opinion that the cost of gas proposed by the Public Staff should be accepted. The removal of the ($25,412) for Company use gas is beneficial to the Company. The total difference of $74,590 between the Company and the Public Staff is relatively small. In addition, it appears to us that the temporary or emergency storage that Transco made available to N.C.N.G., while it was completing development of the Washington Storage Field, may no longer be needed. We are, thus, of the opinion that the $100,000 "Emergency Storage Service" may be a non-recurring item of cost which should be excluded from the calculation of adjusted test year cost of gas.

For the reasons thus stated, the Commission concludes that the cost of gas which is appropriate for use in setting rates in this proceeding is $25,245,296. However, should the company find it necessary to obtain "Emergency Storage Service" in the future, the Commission will consider allowing the company to recover this item of cost through an appropriate purchase gas adjustment surcharge.

The Commission will now discuss the remaining differences between the Company and the Public Staff in categories of operating expense other than cost of gas. Briefly, the major differences between the two witnesses in these areas are as follows:

(1) Public Staff witness Dudley disallowed a proposed wage increase scheduled to become effective on 10-1-78 and the portion of the allowable wage increase and associated group insurance costs which were applicable to nonutility

operations. This adjustment also affected the amount of pension expense which was based on wages.

(2) Public Staff witness Dudley calculated his annual depreciation expense on the basis of plant-in-service plus completed construction at 6-30-77. Construction completed as of 6-30-77, but not classified on the books as utility plant in service, was omitted by witness Wells. Staff witness Dudley also used Public Staff witness Nery's depreciation rate recommendation of 3.61% for Account 380 - Services, rather than the Company's recommended rate of 6.37%.

(3) Public Staff witness Dudley computed his payroll tax expense based on the level of wages determined in number (1) above, as opposed to the level of wages used by the Company in its calculation of payroll tax expense.

(4) Public Staff witness Dudley's calculation of income taxes differed from Company witness Wells due to effects of the revenue adjustment previously discussed in Evidence and Conclusions for Finding of Fact No. 10 and the effects of the expense adjustments in numbers (1) through (3) above.

In addition to the major differences discussed above, Staff Witness Dudley proposed a number of other adjustments which were detailed on Dudley Exhibit 1, Schedules 3-3 (revised) and 3-5 (revised). Company witness Wells was requested at the outset of his cross-examination (to limit the scope of cross-examination) to designate the Staff adjustments with which the Company agreed. Since there were fewer areas of disagreement than agreement, Company witness Wells listed (TR., Vol. 2, pp. 44-54, and Vol. 11, pp. 124-127) the Public Staff adjustments with which the Company disagreed in either principle or amount. Company witness Wells implicitly accepted the remaining adjustments. The Commission has reviewed the adjustments not challenged by Company witness Wells which appear on Dudley Exhibit 1, Schedules 3-3 and 3-5 (revised) and concludes that they are proper ratemaking adjustments which should be adopted for use in this case. Therefore, the Commission does not deem it necessary to discuss these adjustments individually, but will proceed to the evidence and conclusions regarding the disputed adjustments.

The primary difference between the two witnesses regarding the level of wages chargeable to utility operations after wage increases was discussed by Public Staff witness Dudley in his direct testimony (TR., Vol. 9, p. 117). One reason listed by witness Dudley for removing the wage increase due to become effective on October 1, 1978, from approved operating expenses in this proceeding was that its inclusion is prohibited by G.S. 62-133(c) (TR., Vol. 10, p. 23), which allows only known changes that have actually occurred by the close of the hearings in updating test year expenses. The Commission concludes that the wage increment due to become effective on October 1, 1978, as proposed by the Company, in

its wage adjustment, is beyond the time period which the Commission can consider as an actual change in test year expenses based on G.S. 62-133(c). The other reason listed by Witness Dudley was the allocation of 10% (7.5%/75%) of the proposed wage increase to non-utility operations. He pointed out (TR., Vol. 9, p. 129) that if he had included the October 1, 1978 wage increment, his wage adjustment would have been approximately $147,000 larger than the approximate ($245,000) which he reflected in his Schedule 3-3 (revised). Company witness Wells agreed (TR., Vol. 2, p. 53) that the Company's exhibits reflected the entire wage increase as being applicable to utility operations. He also stated (TR., Vol. 2, p. 53) that of the 75% of total company wages charged to expense, 7.5% related to nonutility operations (merchandising and jobbing, L.P. operations, and insulation sales). This statement implies that the remaining 67.5% of wages apply to utility operations. This 67.5% allocation factor was used by Staff witness Dudley in his computations regarding wages and associated payroll cost (by the Commission). Staff witness Dudley was questioned on the source of the 67.5% allocation factor. He stated (TR., Vol. 10, p. 5) that this factor was derived from an analysis of the test period payroll based on monthly report data and that the percentage of total wages charged to utility operations was 67.2%. When asked whether this percentage should be revised upward to reflect a reduced amount of wages to be capitalized by the Company, Staff Witness Dudley testified that he had increased the percentage of wages chargeable to operations to 67.5% and that he believed this percentage to be reasonable since the additional wages proposed to be charged to expense was only an estimate and that an analysis of N.C.N.G.'s payroll for the most recent twelve months revealed that 67.6% of the total wages were charged to utility operations. The Commission has reviewed this testimony and concludes, based on all the evidence presented, that 67.5% is an appropriate wage and associated payroll cost allocation factor for use in this proceeding.

Additional testimony was offered on the proper ratemaking treatment of associated wage related costs such as payroll taxes, group insurance costs, and pension costs. Company witness Wells (TR., Vol. 2, pp. 53-54, TR., Vol. 11, pp. 126-127) stated that while a portion of the wages are properly chargeable to nonutility operations, all other associated payroll costs should be assigned 100% to utility operations. He contended that the nonutility operations should not bear any costs other than those wages which were charged to nonutility operations by Staff witness Dudley. Witness Dudley testified (TR., Vol. 10, pp. 7-8) that it was inappropriate and inconsistent from an accounting point of view not to assign a portion of the associated wage costs to nonutility operations. The Commission concludes that since N.C.N.G. does have various non-utility operations and since a portion of wages should properly be allocated to these operations, it would be consistent and appropriate to assign

a related portion of the associated payroll cost to these nonutility operations.

The Commission concludes that The Public Staff's treatment of these associated payroll costs is proper, with exception of group insurance costs. The Commission regards group insurance costs as being sufficiently related to payroll taxes and pension costs that a portion of these group insurance costs should be similarly capitalized. Therefore, the Commission having calculated the insurance costs assignable to utility operations concludes that the proper adjustment for this item is $38,902 calculated as follows: $178,322 - $209,540 - $7,684=$38,902.

Based upon the foregoing the Commission finally concludes that the proper amount of operations and maintenance expense to be used in this proceeding under present rates is $5,644,114.

The Commission having examined elsewhere, in Evidence and Conclusions for Finding of Fact No. 11, the depreciation expense issue concludes that $1,909,961 is the proper amount of annual depreciation expense to be used for purpose of setting rates in this proceeding.

Company witness Wells and Public Staff witness Dudley disagreed on the level of taxes other than income. Reference to witness Dudley's Schedule 3-5 (revised) reveals that witness Dudley has proposed adjustments to remove nonutility taxes and to calculate the appropriate levels of gross receipts taxes and property taxes. Company witness Wells implicitly accepted (TR., Vol. 2, pp. 44-54) these adjustments. The Commission has also reviewed these adjustments and finds them to be proper. The remaining adjustments to taxes other than income proposed by Staff witness Dudley relate to payroll taxes and are based on witness Dudley's wage adjustments, which the Commission has previously found proper. The Commission, after having reviewed these payroll tax computations, finds them to be proper and, thus, concludes that the proper amount of taxes other than income to be used in this proceeding under present rates is $3,250,827.

The remaining operating revenue deduction to be determined is income tax expense. The Commission finds that neither the amount proposed by witness Wells or by witness Dudley is proper. The proper amount of income tax expense to be used in this proceeding is calculated as follows:

Operating revenues		$39,897,357
Operating expenses		
Purchased gas	$25,245,296	
Operations and maintenance	5,644,114	
Depreciation	1,909,961	
Taxes other than income	3,250,827	
Total operating expenses		36,050,198
Operating income		3,847,159
Interest expense		1,746,297
Net taxable income		2,100,862
State income tax ($2,100,862 x .06)		126,052
Federal taxable income		1,974,810
Federal income tax before amortization of JDC ($1,974,810 x .48)		947,910
Amortization of JDC		46,000
Federal income tax		$ 901,910

The Commission, therefore, concludes that the total amount of income tax expense is $1,027,962 composed of $126,052 state income tax and $901,910 federal income tax.

Based on the testimony and evidence presented in this case which we have discussed above, the Commission concludes that the proper level of total operating revenue deductions under present rates is $37,078,160 which consists of $25,245,296 purchased gas cost, $5,644,114 operations and maintenance expense, $1,909,961 annual depreciation expense, $3,250,827 taxes other than income, and $1,027,962 income taxes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Testimony regarding the development of the appropriate capital structure to be used in this proceeding was presented by Company witnesses Wells and Meyer, Public Staff witnesses Dudley, Daniel, and Watson, and Municipal Intervenor witnesses Smith and Pous.

The capital amounts and ratios presented by the Company, Public Staff, and Municipal Intervenors were as follows:

(000's Omitted)

Item	Company Amount	Company Ratio	Public Staff Amount	Public Staff Ratio	Municipal Intervenor Amount	Municipal Intervenor Ratio
Long-term debt	$24,930	27.15	$24,930	55.78	$ 24,851	53.4
Short-term debt	-	-	-	-	600,000	1.3
Deferred income taxes	6,052	11.44	-	-	-	-
Stockholder's equity per books	21,129	-	21,129	-	21,117	-
Stockholder's investment in exploration program	-	-	(1,367)	-	-	-
Job Development Investment Tax Credit	766	-	-	-	-	-
Total equity	21,895	41.41	19,762	44.22	21,117	45.3
Total capitalization	$52,877	100.00	$44,691	100.00	$ 46,568	100.00

Both the Company and the Public Staff agreed on the amount of long term debt; however, the Municipal Intervenor witness presented approximately $79,000 more long term debt than either of the other two parties. The record reveals no discussion or resolution of this discrepancy. The Commission recognizes that this difference would have a minor impact on the resulting long-term debt ratio. In the absence of evidence in this regard, the Commission concludes that the amount of $24,930,000 presented by both the Company and the Public Staff should be used in the computation of the long-term debt ratio. The Municipal Intervenors also included $600,000 of short-term debt in the capital structure, which neither the Company nor the Public Staff included. The Commission understands from cross-examination testimony (TR., Vol. 12, p. 52) that this short-term debt is related entirely to nonutility operations and, therefore, should be excluded in the computation of the proper utility capitalization ratios. The amount of common equity per books, which was presented by both the Company and the Public Staff was $21,128,658 or approximately $11,700 more than the amount included by the Municipal Intervenors. This discrepancy, like the one between the long-term debt amounts, was not discussed on the record. Therefore, since the amount of difference is immaterial and the resulting impact on the common equity ratio is minimal, the Commission concludes that $21,128,658 is the appropriate book common equity amount to be used in the computation of the capitalization ratios. The remaining differences in total capitalization, and, therefore, in the capitalization

ratios, concern the treatment of accumlated deferred income taxes, stockholder investment in exploration programs, and the unamortized balance of the Job Development Investment Tax Credit. The Commission has previously found (in Evidence and Conclusions for Finding of Fact No. 9) that accumulated deferred income taxes should be treated as a deduction in the calculation of the fair value of property (rate base) rather than as a zero-cost component of the capital structure. We will not repeat those findings here.

The two basic issues to be resolved in computing the proper capitalization ratios are as follows:

(1) Should the Job Development Investment Credit (JDC) be included in common equity in computing the common equity capitalization ratio and, therefore, allow the investment supported by this source of funds to earn the full equity rate of return as opposed to the overall rate of return?

(2) Should book common equity be reduced by the total amount of N.C.N.G.'s twenty-five percent matching investment in exploration programs?

Company witness Wells revised his direct testimony to include the balance of JDC in common equity. He stated that, based on an IRS information letter which had come to his attention subsequent to the filing of his direct testimony, there was a chance N.C.N.G. would lose the credit should the Commission assign the credit a cost of capital less than that assigned to common equity.

Public Staff witness Daniel, in his surrebuttal testimony (TR., Vol. 12, pp. 70-73), stated that the information letter to which Company witness Wells referred was an IRS letter to the New Mexico Public Service Commission and that, based on this letter, the New Mexico Commission initially allowed the full equity return, but in recent cases had reversed that position and had begun allowing the overall rate of return. Witness Daniel further discussed (TR., Vol. 11, p. 81) the fact that an information letter represents the unofficial position of the IRS and that the only guideline followed by the IRS relative to the appropriate regulatory treatment of JDC is IRS proposed regulation 1.46-5(b)(3). Witness Daniel testified that the proposed regulation requires only the overall rate of return. He further reported (TR., Vol. 12, p.82) the results of a survey conducted by the Public Staff Accounting Division, which showed that 17 of 20 states which had responded to the survey had been granting the overall rate of return on JDC. Staff witness Daniel testified (TR., Vol. 12, p. 72) that, in his opinion, it was unfair for the Company to receive any return on these cost-free funds, but the law required the Commission to grant some return on these funds if the credit was available. Although a return on these funds is necessary, witness Daniel contended that the overall return is sufficient to satisfy the existing requirements of the law and IRS proposed regulations

1.46-5(b)(3). Witness Daniel stated that Public Staff witness Dudley had excluded the unamortized balance of JDC and that such treatment results in application of the overall rates of return to investment supported by the unamortized balance of the Job Development Investment Tax Credit.

The Commission has considered the evidence presented concerning the cost-free nature of these funds and the decision it faces with regard to the granting of the overall or full equity return. The Commission does not desire to create a situation where N.C.N.G. would lose this tax advantage, however the Commission places greater weight on the IRS proposed regulations regarding the potential loss of the credit rather than the IRS information letter and, therefore, concludes that the minimum return required on these funds is the overall rate of return. Accordingly, the Commission concludes that book common equity should not be increased to include JDC in computing the common equity capitalization ratio.

The Commission will now discuss the issue involving the appropriate level of the shareholders' investment in N.C.N.G.'s exploration program and whether the book common equity should be reduced by the amount of this investment for the purpose of calculating the capitalization ratios. Company witness Wells testified (TR., Vol. 2, p. 35) that he deducted from the book common equity, the amount of $1,366,711 which represented the amount of stockholders' investment in exploration programs as of June 30, 1977. Later, Mr. Wells recanted (TR., Vol. 11, pp. 112-113) and contended that this treatment was improper because the Company's investment in the exploration program was financed by the Company's total capital structure and not just the common equity portion. He testified that the Public Staff's treatment resulted in an understatement of the stockholder equity ratio and an overstatement of the debt ratio, which he contended would result in a lower overall cost of capital than if the Company did not have an exploration program.

In his surrebuttal testimony, Public Staff witness Daniel stated (TR., Vol. 12, pp. 73-74) that Mr. Wells' contention that the exploration program was financed by the Company's total capital structure was correct but that it was also true that the Commission, in its Further Order Establishing Natural Gas Exploration Rules (Docket Nos. G-100, Sub 22; G-21, Sub 134), concluded that participation in the financing of the exploration program should be in the ratio of 75% customer funds to 25% stockholder funds. He further stated that the only way to ensure that the stockholders contribute their full 25% share of the cost of the exploration program was to provide specific treatment of the stockholder portion of the contribution in the manner accorded to it by Public Staff witness Watson (i.e., exclude stockholder investment in exploration program from common equity in calculating the capitalization ratios). He further stated that this treatment was necessary in order to

be consistent with the Commission's orders regarding the exploration program.

On cross-examination, witness Daniel agreed (TR., Vol. 12, pp. 85-86) that the reduction of book common equity by the stockholder portion of investment in the exploration program did result in a lower common equity ratio than would exist absent the deduction. He stated that this would not necessarily result in a lower cost of capital due to the existence of the exploration program, since Public Staff witness Watson considered the lower equity ratio in making his cost of capital recommendation.

The Commission has very carefully examined and considered the evidence presented on this issue and concludes that the Public Staff's contention that the stockholder investment in the Company's exploration program should be considered 100% equity financed is unfounded and inconsistent with the Commission order in Docket No. G-100, Sub 22, and G-21, Sub 134, and therefore is improper.

Based on the foregoing, the Commission concludes that the proper capitalization ratios for use in this proceeding are 54.13% debt and 45.87% common equity, which ratios are calculated as follows:

Item	Amount	Percent
Long-term debt	$24,930,000	54.13%
Common equity	21,128,658	45.87%
Total	$46,058,658	100.00%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding is contained in the Commission's previous evidence and conclusions for Findings of Fact Nos. 5, 8, 9, and 13. In Evidence and Conclusions for Finding of Fact No. 5, we determined that the original cost net investment was $40,631,187, consisting of the gas plant-in-service, less accumulated depreciation, less customer advances for construction, plus the reasonable allowance for working capital, less cost-free capital. The difference between the fair value of property (or rate base) and the original cost net investment was determined to be $28,826,085 in Evidence and Conclusions for Finding of Fact No. 7. This amount is also commonly referred to as the fair value increment. The appropriate capitalization ratios for use in this proceeding were determined in Evidence and Conclusions for Finding of Fact No. 13, using the Company's total capital structure.

Since the Company's total capital structure supports more than just its utility rate base assets, some allocation of total capital must be made to assure that the Company's assets, and the capital supporting these assets are consistent. This allocation is made by applying the capitalization ratios previously determined to the original

cost net investment. The resulting allocated rate base components are as follows:

Item	Calculated Capitalization Ratios	Book Amount	Allocated Rate Base Components
Total Capital	100%	$46,058,658	$40,631,187
Long-term debt	54.13%	$24,930,000	$21,993,662
Common Equity	45.87%	$21,128,658	$18,637,525

From the allocated rate base components and amounts, the Commission must now determine the appropriate fair value capital structure and fair value capitalization ratios. This is done by adding the $28,826,085 fair value increment previously determined to the common equity portion of the allocated rate base components calculated herein. The resulting total fair value capital allocated to rate base, fair value capitalization ratios, and fair value equity component are as follows:

Item	Amount	Percent
Long-term debt	$21,993,662	31.67%
Fair value equity	47,463,610	68.33%
Total	$69,457,272	100.00%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for this finding is contained in the Company's data response to the minimum filing requirements, the testimony and exhibits of Company witnesses Wells and Meyer, the testimony and exhibits of the Municipal Intervenor's witness Smith, and the testimony and exhibits of Public Staff witness Watson. Further evidence is contained in the rebuttal testimony of Company witness Meyer, the surrebuttal testimony of the Muncipal Intervenor's witness Smith, and the surrebuttal testimony of Public Staff witness Watson.

Company witness Meyer and the Company's data response filing show an actual balance of long-term debt at September 30, 1977, of $24,930,000. Public Staff witness Watson also shows the balance of debt at September 30, 1977, to be $24,930,000; however, he has broken this amount into components of long-term debt and interim financing. The Municipal Intervenor's witness Smith shows long-term debt at September 30, 1977, of $24,850,920.

Company witness Meyer testified that the embedded cost of debt for North Carolina Natural's long-term debt is 7.95%. The Municipal Intervenor witness Smith found that the embedded cost of long-term debt was 7.95%. Combining the two sources of debt testified by him, Public Staff witness Watson determined an embedded cost of long-term debt of 7.93%.

The Commission concludes that the embedded cost of the long-term debt of $24,930,000 is 7.94%. The difference between the parties is insignificant and this conclusion is consistent with our earlier conclusions on test year expenses and capital structure.

On the issue of short-term debt, both Company witness Meyer and the Municipal Intervenor witness Smith show that the Company carries $600,000 of short-term debt at a cost rate of 7.5%. Public Staff witness Watson shows no provision for short-term debt. As previously discussed, Public Staff Accounting witness Coleman stated on cross-examination that the $600,000 in short-term financing was employed for nonutility functions (see TR., Vol. 12, p.52).

The Commission concludes that short-term debt should carry no weight in determining the overall cost of capital and fair rate of return for purposes of this proceeding.

Company witness Meyer began his cost of equity capital testimony by analyzing bond yields for public utilities over the 34-month period January, 1975 to October, 1977. Mr. Meyer calculated the average bond yield over this time period for utility companies classified A by Moody's Investors Services. He concluded that investors perceive N.C.N.G. as a Company which would receive an A rating even though the Company has never been required to obtain a rating from the rating agencies. Mr. Meyer then contended that since the average current yield for A-rated bond over the 34-month period he employed was 9.37%, this cost should be used as a base measure for the Company's cost of equity capital.

Mr. Meyer proceeded to argue that the Company's equity requires a risk factor premium of 3-5% over the base measure to compensate the common stock investor for the additional risks of holding common equity. Mr. Meyer finally proposed an additional premium, over and above the risk premium, to allow the stock to sell at 120% of book value, resulting in a final estimate of the cost of equity capital for N.C.N.G. of 14.85%.

The Municipal Intervenor's witness Smith performed a discounted cash flow (DCF) analysis of fifteen gas distribution companies to determine the average cost of equity capital for the comparable earnings group. The average figure for the group was estimated to be 12.00%. Dr. Smith then examined each of six risk-related factors affecting the cost of equity capital through the use of statistical estimates of correlation of each factor with dividend yield. The statistical procedure, or regression analysis, shows that the common equity ratio is the only factor significantly affecting dividend yield. The evidence presented by Dr. Smith indicates that the Company's overall cost of equity capital should be adjusted downward by 0.30% to offset the lower risk of the Company's higher equity

ratio. Thus, she arrives at an estimate of cost of equity capital for the Company of 11.70%

Public Staff witness Watson derived an estimate of the average cost of equity capital for sixteen comparable gas distribution companies, most of which were the same as those used by Dr. Smith. Through independent DCF analysis, he derived an average cost of equity capital of 12.00% for the comparable group. Through a comparison of the Company's stock performance with the average stock represented by a market index, Mr. Watson derived an estimate of the relative volatility of the Company's stock with the market for equity capital. The beta estimate thus derived is .80. The interpretation of the beta estimate so derived is that if average market return moves up or down 10%, then the return of the Company's stock will respond accordingly by moving, on average, only 8% in the same direction. Mr. Watson pointed out on redirect examination that the concept of beta directly relates to the definition of risk i.e. that expected future returns as perceived by the investor will deviate from actual realized future returns.

Further, Mr. Watson stated that the beta estimate for North Carolina Natural's stock, when related to returns for the average utility stock, is not significantly different from 1.00. On the basis of these two beta estimates, Mr. Watson adjusted his 12.00% DCF average by adding 25 basis points to allow for any additional risks that the investor might perceive due to a slight increase in variability of returns. Mr. Watson further showed that a rate of return of 12.25% will allow the Company to realize a fixed charge coverage ratio of approximately 3.36 times. He noted that this is consistent with A-rated gas utilities and concludes that it adequately rewards N.C.N.G. common stock investors without penalizing current and future investors.

The determination of cost of equity capital admittedly requires expert judgment. However, traditional methods and procedures couched in financial theory have been devised to eliminate as much judgment as possible. These traditional methods include (a) comparable earnings, (b) earnings/price ratios, and (c) DCF. The use of these traditional methods has the added benefit of being proven over time.

The Commission is receptive to the final result of any analytical technique used to determine the cost of equity capital. Indeed, the Commission finds that a diversity of methodology is a desirable end in itself. However, any particular technique requires the use of expert judgment, and hence raises questions concerning the amount of objectivity used in the analysis.

The Commission takes notice of the opinion of the Supreme Court of the State of North carolina in Utilities Commission, et al. v. Duke Power Company, 285 N.C., 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 North Carolina Natural's equity holders and the protection against inflation which is afforded by the addition of the fair value increment to the equity component of North Carolina Natural's capital structure. Considering the nature of North Carolina Natural's current investment needs, and their present status with regard to equity financing, as well as other testimony relating to rate of return, the Commission concludes that a rate of return of 5.87% on the fair value of North Carolina Natural's property used and useful in rendering natural gas utility service to its customers in North Carolina is just and reasonable. The actual return on book common equity yielded by the Fair Value rate of return herein found fair (5.87%) is approximately 12.51%.

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. 16

The following schedules summarize the gross revenues and the rates of return which the Company should have a reasonable opportunity to achieve, based on 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.

North Carolina Natural Gas Corporation

Schedule I

Docket No. G-21, Sub 171
Docket No. G-21, Sub 177

STATEMENT OF FAIR VALUE RATE OF RETURN

Twelve Months Ended June 30, 1977

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Gas sales	$39,893,169	$ 2,756,552	$42,649,721
Other operating revenues	4,188	-	4,188
Total operating revenues	39,897,357	2,756,552	42,653,909
Operating Revenue Deductions			
Purchased gas	25,245,296	18,745	25,245,296
Operating and maintenance expense	5,644,114		5,662,859
Depreciation	1,909,961		1,909,961
Taxes other than income	3,250,827	164,269	3,415,096
Income taxes - State and Federal	1,027,962	1,315,593	2,343,555
Total operating revenue deductions	37,078,160	1,498,607	38,576,767
Net operating income for return	$ 2,819,197	$ 1,257,945	$ 4,077,142

Investment in Gas Plant		
Gas plant in service	$63,238,310	$63,238,310
Less: Accumulated depreciation	18,705,845	18,705,845
Customer advances for construction	46,475	46,475
Net gas plant less customer advances	44,485,990	44,485,990
Allowance for Working Capital		
Cash	705,514	705,514
Materials and supplies	1,946,927	1,946,927
Average prepayments	63,658	63,658
Compensating bank balances	1,256,000	1,256,000
Less: Average tax accruals	1,426,248	1,426,248
Customer deposits	348,867	348,867
Total allowance for working capital	2,196,984	2,196,984
Less: Cost-free capital	6,051,787	6,051,787
Original cost net investment	$40,631,187	$40,631,187
Fair value rate base	$69,457,272	$69,457,272
Rate of return on fair value rate base	4.06%	5.87%

North Carolina Natural Gas Corporation

Schedule II

Docket No. G-21, Sub 171
Docket No. G-21, Sub 177

STATEMENT OF RETURN ON FAIR VALUE COMMON EQUITY

Twelve Months Ended June 30, 1977

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	$21,993,662	31.67	7.94	$1,746,297
Common equity[1/]	47,463,610	68.33	2.26	1,072,900
Total	$69,457,272	100.00	-	$2,819,197
		Approved Rates - Fair Value Rate Base		
Long-term debt	$21,993,662	31.67	7.94	$1,746,297
Common equity[1/]	47,463,610	68.33	4.91	2,330,845
Total	$69,457,272	100.00	-	$4,077,142

1/ Book common equity $18,637,525
Fair value increment 28,826,085
$47,463,610

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The evidence for this Finding of Fact is contained in the testimony and exhibits of Company witnesses Wells and Ransom; Public Staff witnesses Hagat, Blaydon, Stone, and Nery; Municipal Intervenors' witnesses Clark, Saffer, and Carpenter; CPI witness Hughes; and Alcoa witness Stickney.

The Company and Public Staff have both arranged the rate schedules under which service is offered in accordance with the priority system established by the Commission in Docket No. G-100, Sub 24. In so doing, the number of rate schedules under which service is to be offered has been reduced from sixteen to eight. No intervenor to the proceeding opposed this arrangement and the Commission feels that this grouping, which reflects the availability and reliability of gas service, is appropriate. The Commission (in the emergency surcharge Docket No. G-21, Subs 178 and 182), has authorized North Carolina Natural Gas Corporation to provide service to customers in Priority 1 and 2 on a design winter. The volumes of gas available for sale under this guideline are 206,469,538 therms and this volume has been used by the Company, the Public Staff, and the other intervenors as the basis of their revenue calculations. We agree that this volume is appropriate for use in setting rates in this proceeding.

In this case, the Commission has before it four (4) cost of service studies which reflect various cost allocation methodologies.

The cost allocation witness (Saffer) for the Municipal Intervenors proposed to allocate the costs relating to the transmission system solely on the basis of volumes. N.C.N.G. witness Ransom would allocate this same cost by applying a weighting factor 50% to demand and 50% to commodity. The Public Staff (Stone) allocated this cost 75% to commodity and 25% to demand. In the case of CP Industries, its cost of service witness (T.R. Hughes) would allocate certain expenses to CPI on the basis of the cost relationship of 9-11 miles of N.C.N.G. pipe required to service CPI to N.C.N.G.'s total plant. Each witness contends that his study is appropriate for allocating cost of service to the various customer classes. Witnesses Ransom and Stone testified that their fully allocated cost studies were not the ultimate goals of rate design, but were useful merely as guides, which indicated the relative manner in which rates for certain classes should move. Witnesses Hughes, Saffer, and Stickney contended that rates should be set so as to ensure that each customer class would make an equal contribution to the system rate of return.

Public Staff witnesses Hagat and Blaydon testified that allocated cost of service studies were not an appropriate method for designing N.C.N.G.'s rates in this case. They contended that rates should be set which would force each

customer to face the marginal cost of providing one additional decatherm (Dt) of service to such customer.

The Commission has reviewed the marginal cost testimony of witnesses Magat and Blaydon for the Public Staff and the rebuttal testimony of Mr. Ransom and Dr. Carpenter regarding use of marginal cost.

The Public Staff witnesses proposed the following criteria for use in any rate design:

(1) Rates should induce economically efficient allocation of resources;
(2) Rates should produce the required revenues;
(3) Rates should be nondiscriminatory;
(4) Changes in rates should take place gradually; and
(5) Rates should provide reasonably stable revenue patterns.

Witnesses Magat and Blaydon argued that criteria (2), (4), and (5) implied nothing about the proper design of rates and that criteria (1) and (3) implied that rates should be set equal to marginal cost.

They determined that the winter marginal commodity cost for N.C.N.G. was in the range of $2.49 to $3.03 per decatherm, depending on the intrastate purchase price of emergency gas, and that the summer marginal commodity cost for N.C.N.G. was between $2.04 and $2.58, which difference is the marginal storage cost of gas placed in Transco's Washington Storage Service (WSS) Field.

The Company and the Public Staff further presented to the Commission (Ransom Exhibit IV, Schedule L, and Nery Exhibit No. 5) a historical comparison between the rates currently in effect as established in Docket No. G-21, Sub 170, and the revenues generated by the proposed rates of the Company and the Public Staff. This comparison indicates that the level of increases or decreases range from a positive 2.2% to a positive 24% (Company) and from a negative 11-1/2% to a positive 34-1/2% (Public Staff) both of which would result in an average increase to all customers of 11.6%, using N.C.N.G.'s proposed revenue requirement.

The Public Staff further presented testimony on the cost of alternate fuels for the various rate classes and priorities, which study tends to indicate that the proposed rate levels for each rate class as filed by N.C.N.G. and as proposed by the Public Staff were all less than the competitive rates of alternative fuels.

After having considered the cost of service studies, the marginal cost data, the historical rate comparisons, the fact that North Carolina Natural has not had a general rate case since its initial rates were approved, the competitive cost relationship between natural gas and other alternate energy sources, the need for a more simplified rate

structure, and the desirability of encouraging consumer conservation through rate design, the Commission concludes that the additional $2,756,552 in gross revenues approved herein should be derived pursuant to the following guidelines:

1. Minimum Bill

The Commission concludes that the minimum bill is the most desirable method of recovering a portion of customer costs and that such a charge for residential customers should include the first five therms of natural gas consumed.

2. Summer - Winter Differential

The Commission concludes that rates incorporating a summer-winter differential are undesirable in that such rates would be less effective than average flat or average declining block rates in encouraging consumer conservation and therefore are inappropriate for use in this proceeding.

3. Alternative Allocation of Approved Increase to Customer Classes

(a) With regard to the Company's proposed rates, the Commission concludes that the difference between the level of additional revenues to be produced by such rates ($4,607,748) and the increase in gross revenues approved herein ($2,756,552) of $1,851,196 shall be spread uniformly (across-the-board) as a reduction in the Company's proposed rates to all customer classes.

(b) With regard to the Public Staff's proposed rates the Commission concludes that the difference between the level of additional revenues to be produced by such rates ($2,401,879) and the increase approved herein ($2,756,552) of $354,673 shall be spread uniformly (across-the-board) as an increase in the Public Staff's proposed rates to all customer classes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The volume variation adjustment factor or curtailment tracking rate (CTR) was initiated in Docket No. G-21, Sub 128, for the purpose of stabilizing the base period margin (gas sales revenue - cost of gas - gross receipts tax) which had been subject to variation due to the curtailment of N.C.N.G.'s flowing gas supply from Transco. Although the CTR does not guarantee any specific rate of return in time intervals between general rate case proceedings (and was never intended to), it has functioned well in protecting the Company's base period margin where fluctuation of flowing gas supply has characterized annual operations. This uncertainty concerning gas supply volumes

and its attendant consequences continue to affect N.C.N.G. Transco's supplies have not stabilized and Transco's actual deliveries continue to vary from its projections. The Commission concludes that the instability and variability of future pipeline gas supplies merit the continuation of the CTR.,

The Commission further concludes that the new base period supply volume of 206,469,538 therms and the new base period margin of $14,512,049, which are established in this proceeding should be calculated as follows:

Base period supply - therms		206,890,904
Less: Company use and unaccounted for		421,366
Base period volume - therms		206,469,538
Gas revenues		$42,626,207
Miscellaneous Revenues		27,702
Total		42,653,909
Less: Cost of gas	$25,245,296	
Gross receipts tax	2,557,572	27,802,868
Base period margin		$14,851,041

IT IS, THEREFORE, ORDERED as follows:

1. That North Carolina Natural Gas Corporation be, and the same is hereby, authorized to adjust and increase its rates and charges so as to produce additional annual revenues of $2,756,552. Such increase shall become effective on all gas sold from and after the filing of new tariffs provided hereafter.

2. That the proposed rates filed by N.C.N.G., which were designed to produce additional annual revenues of $4,607,748, are in excess of those which are just and reasonable and the same are hereby disapproved and denied.

3. That effective for service rendered on and after the date of this Order, N.C.N.G. is hereby allowed to place into effect the increased rates as set forth in Appendix A which rates are designed to produce additional annual revenues in the amount of $2,756,552.

4. That if the parties seek reconsideration of the rate design set forth in Appendix A to this final order, the parties may propose specific tariffs, other than those set forth in Appendix A. These proposed tariffs should be designed to recover the additional revenues approved herein and should be designed in accordance with the conclusions set forth in the Evidence and Conclusions for Finding of Fact 17. Said proposed tariffs must be filed within 10 days from the date of this Order, and exceptions and comments to

said proposed tariffs shall be filed within 5 days thereafter.

5. That the rates, charges, and regulations set forth in Appendix A shall remain effective until such time as any further Order approving the proposed tariffs may be issued.

6. That, except as approved herein, the applications in Docket No. G-21, Subs 171 and 177, are denied and dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of June, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 177
DOCKET NO. G-21, SUB 171

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Docket No. G-21, Sub 177: Application of North Carolina Natural Gas Corporation for an Adjustment of Its Rates and Charges	ORDER MODIFYING RATE DECISION
Docket No. G-21, Sub 171: Application for Approval of New Depreciation Rates Based Upon Depreciation Study	

BY THE COMMISSION: As provided in ordering paragraph No. 4 of the Commission's Order Setting Rates, dated June 23, 1978, in this docket (G-21, Sub 177), North Carolina Natural Gas Corporation, the Public Staff of the North Carolina Utilities Commission, C.F. Industries, and the Municipal Intervenors each filed an alternative rate design for the Commission to consider in lieu of the rate design set forth in Appendix A to the aforementioned Commission Order.

The Commission, having very carefully considered the alternative rate designs proposed by the parties and the comments and exceptions filed in response thereto, concludes that good cause exists for the modification of the rates as set forth in Appendix A of the Commission Order of June 23, 1978.

Modifications which the Commission finds to be proper are reflected in the rates and charges attached hereto as Appendix A. Such modifications include the following:

(a) Rate Schedule 7 has been modified to reflect a separate demand and a separate commodity charge.

(b) With regard to the demand charge as approved herein for Rate Schedule 7, the Commission concludes that such demand charge shall not be applied to volumes tendered to Rate Schedule 7 customers, if refused by same at a time when the plant is inoperative if the volumes so tendered do not constitute a minimum of a 10-day uninterrupted supply, or if refunded when the pricing of gas volumes tendered and refused include an emergency gas surcharge.

(c) 5,216,799 therms have been shifted from Rate Schedule 3 to Rate Schedule 7, thus requiring that rates be adjusted to shift approximately $305,548 of revenue requirement due to the shift in volumes between rates. In the event that such a shift does not occur, the Commission concludes that Rate Schedule 1 in the $.23030 per therm rate block should be reduced by $.01016, to $.22014 per therm.

(d) All parties submitting alternative rate designs for the Commission's consideration proposed that Rate Schedule 2 be increased. Consistent with these recommendations, the Commission has increased Rate Schedule 2 from $.2159 per therm to $.22369 per therm.

(e) Upon the Commission's own motion upon reconsideration of the adjustment to wage expense for the wage increase to become effective in October 1978, the Commission has reconsidered its Order of June 23, 1978, and the concurring decision thereto of Commissioner Hammond, and the Commission now, upon reconsideration, allows the adjustment to wage expense to include the October 1978 wage increase in the amount of approximately $168,000 as an additional operating expense, to be recovered in the revenue requirement. The majority further concludes that this additional expense should be charged to those rate schedules with the lowest increase so as to equalize the impact of the increase allowed herein and, therefore, spreads the $168,000 additional wage expense and related gross receipts tax to Rate Schedules 2, 3, 7 and RE-1 by the amount of approximately $.001 per therm. Rate Schedule 1 has already been increased 14% as compared to much smaller increases for all other rate schedules and is therefore not included in the assignment of the additional expense in the interest of equalizing the impact of the increases allowed.

The Commission considers that the allowance of the October 1978 wage adjustment is not a change in the rate base which is bound to the test period or to known changes up through the date of the hearing, but is rather an item of probable future expenses based upon the plant and equipment in operation at the time of the hearing, and as such is within the matters to be determined by the Commission with appropriate adjustments for probable future revenues and probable future expenses. Such adjustment is similar to the adjustments made for weather and growth. The adjustment is further recognized as necessary and part of the recognition of attrition as allowed in Utilities Commission v. Morgan, 278 N.C. 235 (1971), as a known expense coming

almost immediately after the rates go into effect which will surely produce an attrition in the rate of return and the Commission therefore makes the wage adjustment as part of such attrition allowance.

(f) It has come to the attention of the Commission that the calculation of the base period volumes to be used in the calculation of future curtailment tracking rates (CTR), as set forth in the Commission Order of June 23, 1978, is in error and should be corrected. Therefore, the Commission concludes that the new base period supply volume of 206,469,538 therms and the new base period margin of $15,019,040 which are established in this proceeding should be calculated as follows:

Base period supply - therms		210,683,203
Less: Company use and unaccounted for		4,213,665
Base period volumes - therms		206,469,538
Gas revenues		$42,804,930
Miscellaneous revenues		27,702
Total		42,832,632
Less: Cost of gas	$25,245,296	
Gross receipts tax	2,568,296	27,813,592
Base period margin		$15,019,040

(g) Finally, the Commission reaffirms ordering paragraph No. 3 of its Order dated June 23, 1978, that the rates approved therein were to become effective for service rendered on and after the date of said Order. However, with regard to the rates approved herein, the Commission views such rates to be a correction of the previously approved rates and therefore concludes that the rates attached hereto as Appendix A should become effective on billings rendered on or after August 1, 1978.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That North Carolina Natural Gas Corporation be, and the same is hereby, authorized to adjust and increase its rates and charges so as to produce additional annual revenues of $2,935,276. Such increase shall become effective on all billings as provided hereafter.

2. That effective for billings rendered on or after August 1, 1978, North Carolina Natural Gas Corporation is hereby allowed to place into effect the increased rates as set forth in Appendix A which rates are designed to produce additional annual revenues in the amount of $2,935,276.

3. That the company shall file amended tariffs reflecting the rates contained in Appendix A on or before August 7, 1978.

4. That, except as modified and approved herein, all provisions of the Commission Order issued June 23, 1978, Docket No. G-21, Subs 171 and 177, remain unchanged.

5. In the event that the shift of 5,216,799 therms from Rate Schedule 3 to Rate Schedule 7 does not occur, Rate Schedule 1 in the $.23030 per therm rate block shall be reduced by $.01016, to $.22014 per therm.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of July, 1978.

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

APPENDIX A
NORTH CAROLINA NATURAL GAS CORPORATION
DOCKET NO. G-21, Sub 177
APPPOVED BASE RATES

Rate Schedule and Description	Charges	
1 - Priority 1.1 Service (Residential and Essential Human Needs)		
Minimum Charge First five therms or less (heat only - 9 months per year)	$ 6.00	per month
First five therms or less (other than heat only - 12 months per year)	$ 4.50	per month
Next 25 therms	$ .27180	per therm
All over 30 therms	$ .23030	per therm
Gas Lights - Monthly Charge	$ 5.00	per month
2 - Commercial and Small Industrial Service (Priorities 1.2 through 2.4)		
~~Minimum Charge-first five therms~~ or less	$ 7.00	per month
All over 5 therms - Commercial Service	$ .22369	per therm
All over 5 therms - Industrial Service	$ .22369	per therm
3 - Industrial Process Uses (Priorities 2.5 and 2.6)		
Facilities Charge	$20.00	per month
All therms	$ .21328	per therm
4 - Industrial Nonboiler Fuel Priorities 3, 4 and 5)		
All therms	$ .18420	per therm
5 - Boiler Fuel (Priorities 6.1 and 6.2)		
All therms	$ .17420	per therm
6 - Large Boiler Fuel (Priorities 7 8 and 9)		
All therms	$ .15420	per therm

7 - Large Chemical Plant Contract Demand Service (Priority 2.7)		
Monthly demand charge as specified in the Contract Service Agreement (per therm of Contract Demand)	$ .18400	
Commodity Charge - all therms	$ .14858	per therm
Gas delivered during Break-in Period	$ .15471	per therm
RE-1 General Service to Public Authorities and Municipalities		
All therms - Residential	$ .17718	per therm
All therms - Commercial	$ .17718	per therm
All therms - Industrial	$ .17718	per therm
E-1 Emergency Service		
All therms - on peak	$ .608	per therm
All therms - off peak	$ .408	per therm

Effective: Billings on or after August 1, 1978

Note: The above rates are base rates only and do not include Commission approved surcharges.

DOCKET NO. G-3, SUB 76

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Pennsylvania and Southern Gas Company, Inc. (North Carolina Gas Service Division), for Authority to Adjust and Increase Its Rates and Charges) ORDER SETTING RATES

HEARD IN: The Municipal Building, Reidsville, North Carolina, Wednesday, October 19, 1977, at 11:00 a.m.

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, Thursday, October 20, 1977, at 10:00 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney and Leigh H. Hammond

APPEARANCES:

For the Applicant:

James T. Williams, Jr., and T. Carlton Younger, Jr., Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys and Counsellors at Law, P.O. Drawer U, Greensboro, North Carolina 27402

For the Public Staff:

Robert F. Page and Theodore C. Brown, Jr., Assistant Staff Attorneys, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On April 29, 1977, Pennsylvania and Southern Gas Company, Inc., North Carolina Gas Service Division (hereinafter sometimes referred to as Penn & Southern, the Company, or the Applicant), filed with the Commission an application for a general rate increase to North Carolina retail customers. Applicant requested that it be authorized by the Commission to increase its rates effective May 29, 1977, amounting to an increase of approximately $670,000 in general revenues applied to the calendar year of 12 months ended December 31, 1976. The increases proposed were uniform and across-the-board for all rate schedules. On May 27, 1977, the Company amended its Petition, making certain modifications in the data and information previously filed, and requested that it be authorized by the Commission to increase its rates effective June 26, 1977.

Being of the opinion that the application affected the public interest in the areas in which service is provided by the Applicant, the Commission, by Order of June 29, 1977, set the matter for investigation and hearing on October 19, 1977, declared the proceeding to be a general rate case under G.S. 62-133, suspended the increases requested by the Applicant for a period of 270 days from and after June 26, 1977, and required that the Applicant publish and deliver notice of such application and hearing to its customers in its service area.

On August 17, 1977, Penn & Southern filed an Application for Emergency Interim Relief and Supplementary Exhibits accompanied by an Undertaking for Refund pending the final Order of the Commission in this docket. The interim rates therein proposed by the Company were exactly the same as those rates proposed in its initial application for a general rate increase. By Order issued on August 22, 1977, the Commission set the application for interim emergency relief for hearing in the Commission Hearing Room on Friday, September 2, 1977, and required Penn & Southern to give notice of such interim hearing to its customers. Notice was published in the Greensboro Daily News and in the Eden News.

On August 24, 1974, Notice of Intervention on behalf of the using and consuming public of the State of North Carolina was filed by the Public Staff of the North Carolina Utilities Commission. Intervention by the Public Staff was recognized in a Commission Order issued September 1, 1977.

The interim hearing was conducted on the basis of affidavits filed by Clifton B. Coulter, President of Penn &

Southern, and by Jana K. Henric, Public Staff Accountant. Following the interim hearing the Commission issued an Order on September 7, 1977, concluding that the deterioration of Penn & Southern's financial condition had created an emergency and allowing the Company to adjust its rates to all customers on an interim basis by a uniform, across-the-board 48.81¢/MCF increase, subject to refund at 6% interest of any rates collected in excess of those finally approved after the final hearing in this docket. Pursuant to this Order, Penn & Southern filed revised rate schedules on September 14, 1977.

Notice of the application and hearing for permanent rate relief was published in the Greensboro Daily News and in the Eden News.

The matter came on for hearing in the Municipal Building of the City of Reidsville on October 19, 1977, at 11:00 a.m., which hearing was continued and reopened at 10:00 a.m. on October 20, 1977, in the Commission Hearing Room in Raleigh. The Company offered the testimony and exhibits of the following persons: James A. Ciavardini, a staff accountant of Pennsylvania and Southern Gas Company, testified concerning the Company's accounting exhibits, its operating revenues and expenses, rates of return during the test year, and the value of its property used and useful in rendering service to its customers in North Carolina; E. L. Lohmann, General Manager of Pennsylvania & Southern Gas Company, testified concerning the Company's historical natural gas operations, its present level of operations, the financial requirements of the Company, the effects of present and anticipated future curtailments from the Company's pipeline supplier on its revenues, the effect on its customers of the proposed new rate structure, cost of capital, and fair rate of return.

The Public Staff offered the testimony of the following persons: Daniel M. Stone, Utilities Engineer of the North Carolina Utilities Commission-Public Staff, testified regarding the operating revenues, including temperature adjustments, and cost of purchased gas to Penn and Southern; Jesse C. Kent, Jr., Accountant of the North Carolina Utilities Commission-Public Staff, testified regarding the Company's original cost net investment, revenues, and expenses during the test year and rates of return based on test year revenues and revenues to be derived from the use of the proposed higher rates; Thomas M. Kiltie, Director of the Operations Analysis Division of the North Carolina Utilities Commission-Public Staff, testified concerning the recommended cost of capital and fair rate of return for the Company.

No public witnesses testified at the hearings.

Based upon the verified application and the exhibits attached thereto, the prefiled testimony and exhibits, the testimony given from the stand during the course of the

hearings, and the entire Commission record herein, the Commission now makes the following

FINDINGS OF FACT

1. That Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, is a Delaware corporation domesticated in the State of North Carolina and is a duly franchised public utility providing natural gas service to its customers in its North Carolina service area. Applicant is properly before this Commission for a determination, pursuant to G.S. 62-133, of whether its proposed increased rates are just and reasonable.

2. That Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, is providing reasonable and 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 supplier.

3. That the reasonable original cost of Pennsylvania and Southern Gas Company's investment in property used and useful in providing gas service to its customers in North Carolina, excluding an allowance for working capital, is $3,160,752, which sum is composed of gas plant in service of $5,454,260 less accumulated depreciation of $1,932,337 and cost-free capital of $361,171.

4. That the reasonable allowance for working capital as of December 31, 1976, is $259,813.

5. That the fair value of Pennsylvania and Southern Gas Company's property used and useful in providing service to its North Carolina customers at December 31, 1976, considering the reasonable depreciated original cost and the replacement cost of the property plus an allowance for working capital is $4,309,560. Such amount consists of the fair value of $3,590,000 found by the Commission in Docket No. G-3, Sub 58, plus additions to plant of $946,280, less retirements of $56,286, and less depreciation expense net of retirements of $430,247 charged since the last general rate case (Docket No. G-3, Sub 58) and an allowance for working capital of $259,813.

6. That the approximate annualized and adjusted gross revenues of Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, for the test period are $3,225,757 under end-of-period rates and $3,899,004 under increased rates proposed by the Company.

7. That the approximate operating revenue deductions during the test year after accounting and pro forma adjustments are $3,187,018, including depreciation expense of $153,681 and interest on customer deposits of $2,978. A schedule of revenues, expenses, and resulting approximate rates of return follows:

	After Adjustments	Approved Rate Increase	After Approved Rate Increase
1. Revenues	$3,225,757	$642,091	$3,867,848
2. Cost of gas	2,178,337	-	2,178,337
3. Total	1,047,420	642,091	1,689,511
4. Deduct other operating expenses	1,008,681	355,458	1,364,139
5. Net operating income for return	38,739	286,633	325,372
6. Deduct fixed charges interest	114,267	-	114,267
7. Balance for common	($ 75,528)	$286,633	$ 211,105
8. Common equity	$1,688,391		$1,688,391
9. Return on Common Equity	(4.47%)		12.50%
10. Fair value equity	$2,577,386		$2,577,386
11. Return on fair value equity	(2.93%)		8.19%
12. Original cost net investment	$3,420,565		$3,420,565
13. Rate of return on original cost net investment	1.13%		9.51%
14. Fair value of property	$4,309,560		$4,309,560
15. Rate of return on fair value of property	.90%		7.55%

8. That the severe uncertainty with regard to gas supply demands that no annualization factor for customer growth during the test period be employed. The restricted growth policies of the Company resulting from supplier curtailment and the limits imposed by this Commission during 1977 in Docket No. G-100, Sub 21, indicate the supply problems faced by the Company. In recognition of this dilemma, neither party gave any testimony regarding annualization, other than by weather adjustment. Major items of revenue and expense were adjusted to end-of-period levels on an item-by-item basis.

9. That based on the Commission's findings of net operating income for return of $38,739 and fair value before adjustments for the proposed rate increase, the Commission finds Penn & Southern's rate of return on fair value to be .90% and its return on book common equity to be a negative 4.47%. (See schedule following Finding of Fact No. 7 above.) Assuming an adjustment to book common equity of

$888,995, to allow for the increment by which fair value as hereinabove determined exceeds original cost net investment, the rate of return on fair value equity of $2,577,386 for the test year would be a negative 2.93%. The Commission finds that such rates of return on fair value, book common equity, and fair value equity are insufficient to allow the utility by sound management to produce a fair profit to its stockholders, to maintain its facilities and service in accordance with the reasonable requirements of its customers, and to compete in the market for capital funds on reasonable terms.

10. That the proper rate of return which Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, should have the opportunity to achieve on the fair value of its North Carolina investment is 7.55%.

11. That the additional gross revenues required to produce the 7.55% rate of return on fair value are $642,091.

12. That the anticipated level of natural gas supply is the most indefinite, variable, and unpredictable element in attempting to set appropriate retail rates for natural gas service. The level of curtailment to be experienced by Penn and Southern is controlled by the amount of contract demand volumes available for sale by Transco and the manner in which these volumes are allocated to Transco's customers by the Federal Energy Regulatory Commission. Formulae are in existence which track revenue gains and/or losses due to increased or decreased curtailment and have been applied to the gas supply problems of the Company as shown by the Order of this Commission of January 3, 1975, in Docket No. G-3, Sub 58.

13. That the Commission further finds that the rate structure approved herein is just and reasonable and does not discriminate among the various classes of customers of Penn & Southern and does not discriminate between customers within the various classes of customers.

14. That the rates proposed by the Company in its application for a general rate increase are unjust and unreasonable in that the Company's proposed tariffs would produce revenues in excess of those determined herein to be just and reasonable. Such rate schedules must, therefore, be disapproved and disallowed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The verified original and amended applications of Penn & Southern state that the Company is a corporation organized under the laws of Delaware and domesticated in the State of North Carolina; that the Company is a public utility under the laws of this State and, as such, is subject to the jurisdiction of this Commission; and that it holds a Certificate of Public Convenience and Necessity from this Commission to engage in the business of "... producing,

generating, transmitting, delivering or furnishing ... piped gas ... to or for the public for compensation." (G.S. 62-3(23)a.1.) No conflicting evidence has been offered by any party or witness and such facts are uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

Company witness E. L. Lohmann testified that "... the cost of gas to our customers is still an excellent energy bargain." He also stated that Penn & Southern had spent substantial sums of money for "... construction of facilities needed to serve our customers and for improvement and replacement of existing facilities." Mr. Lohmann also testified that the Company was studying the feasibility of increasing the storage capacity of its supplemental gas production facilities.

No members of the general public requested leave of the Commission to intervene herein as active parties. None appeared at the hearing to protest. The Public Staff did not offer any evidence with regard to the Applicant's quality of service. Under these circumstances, it is to be presumed, unless competent testimony to the contrary is offered, that the services offered by a duly franchised public utility are reasonable and adequate. No such evidence having been offered, we conclude that the Company's quality of service is adequate to its presently existing customers.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The following schedule summarizes the original cost net investment developed by Company witness Ciavardini and Staff witness Kent:

	Company Witness Ciavardini	Staff Witness Kent
1. Utility plant in service	$5,454,260	$5,454,260
2. Accumulated depreciation	1,932,337	1,932,337
3. Net utility plant	3,521,923	3,521,923
4. Add working capital requirement	252,118	305,570
5. Total	3,774,041	3,827,493
DEDUCT:		
6. Accumulated deferred income taxes	-	324,864
7. Unamortized investment tax credit - pre-1971	-	36,307
8. Customer deposits	-	49,641
9. Total Deductions	-	410,812
10. Original Cost Net Investment	$3,774,041	$3,416,681

As indicated in the above schedule, the difference between the original cost net investment developed by the two witnesses results from the net deduction of $357,360 by Public Staff witness Kent consisting of additional working

capital netted against deferred income taxes due to accelerated depreciation and investment tax credits - pre-1971. Mr. Kent stated that he deducted these items because they represent cost-free capital to the Company which has been furnished by the customers through the payment of rates. Mr. Ciavardini testified that investment tax credit - pre-1971 and deferred income taxes should not be deducted from the rate base since deferred income taxes are not a tax savings but must be paid at a future date. Furthermore, Mr. Ciavardini stated that the taxes are normalized as far as expenses are concerned keeping the ratepayer in the same position in terms of expenses as if straight-line depreciation were used.

Mr. Kent testified that to exclude deferred income taxes (i.e., not deduct them from the investment) would penalize the current ratepayer since the charges claimed were not an actual cost of service to the present customers.

The Commission concludes that deferred taxes, pre-1971 investment tax credits, and customer deposits are customer contributions to capital and it is unreasonable to expect the Company's ratepayers to pay the Company a return on capital which they have contributed; consequently, the cost-free funds must be excluded from the Company's investment for the purpose of determining the reasonable original cost net investment in utility plant.

In the case of deferred income taxes, these funds arise principally as a result of normalizing the difference between the income tax effect of book depreciation (straight-line) and tax depreciation (accelerated). This results in the Company's recording a level of income tax expense in the income statement greater than the actual income tax liability incurred. Consequently, the deferred income tax liability recorded on the balance sheet is the difference between the income tax expense reported on the income statement and the actual income tax liability incurred. The Commission, by statute, is required to include the normalized tax expense in the cost of service on which rates are fixed. Therefore, the ratepayer has contributed through rates an amount of cost-free capital equal to the deferred income tax liability reflected on the balance sheet.

In the case of unamortized investment tax credit (pre-1971), these funds represent a charge against operations that the Company will never be required to pay. As is the case with deferred income taxes, the Commission by statute is required to normalize the effect of this tax credit. Therefore, the ratepayer has paid in through rates an expense which the Company has not and will not incur. The reduction in income tax expense occasioned by the investment tax credit is flowed back to the Company's customers, ratably over the life of the related property, as a reduction in the cost of service. Until such time as the full amount of the normalized investment tax credit is

flowed back to the Company's customers, the unamortized or deferred investment tax credit reflected on the balance sheet is in substance customer supplied cost-free capital.

Customer deposits represent a source of customer-supplied capital which the Company has available and can use for any purpose. Interest does accrue on these deposits, and, therefore, interest expense has been included in determining the test year cost of service. Since the Commission has deducted customer deposits in arriving at the test year level of working capital, it has not been deducted in developing the net investment in utility plant in service.

The Commission therefore concludes that the Company's net investment in utility plant proper for use herein is $3,160,752. Such amount is composed of gas plant in service of $5,454,260 less accumulated depreciation of $1,932,337 and cost-free capital of $361,171.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Both Company witness Ciavardini and Public Staff witness Kent included an allowance for working capital in developing original cost net investment.

From a regulatory point of view working capital represents an investment in materials and supplies plus the cash required to pay operating expenses prior to the time revenues for services rendered are received. An allowance for working capital is included in the rate base in order to provide the investor with a return on the capital furnished by him for these purposes.

Mr. Ciavardini's working capital allowance of $252,118 consists of 1/8 of the operation and maintenance expenses plus minimum bank balances and materials and supplies, less average tax accruals and customer deposits. This was the same method employed in determining working capital in Docket No. G-3, Sub 58, the Company's last general rate case.

Mr. Kent employed the same method in developing the working capital allowance for the Company. However, because of other adjustments made by Mr. Kent, the total working capital allowance was calculated to be $255,929.

While the Commission adopts the method used by both Mr. Ciavardini and Mr. Kent, the Commission has not adopted all of the adjustments as proposed by either witness. Therefore, it is necessary for the Commission to calculate the proper level of working capital. Using the method employed by the two witnesses, the Commission concludes that the reasonable allowance for working capital of $259,813 is appropriate for use herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Exhibit 3 of the Company's application presented a fair value of $4,049,747 consisting of the $3,590,000 found fair by the Commission in its Order dated January 3, 1975, in Docket No. G-3, Sub 58, plus additions of $946,280 less retirements of $56,286 subsequent to the end of the test period in that docket and less depreciation expense net of retirements of $430,247. No other evidence was offered with regard to fair value. The Commission, therefore, concludes that the fair value of the Company's investment of $4,309,560, which includes $259,813 as an allowance for working capital, is appropriate for use herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Ciavardini and Public Staff witness Stone presented testimony concerning the annualized operating revenues. The Company accepted Mr. Stone's calculation of operating revenues of $3,225,757. The Commission therefore adopts the adjusted test period revenues of Mr. Stone of $3,225,757 as the end-of-period revenues.

Mr. Stone testified that the rates proposed by the Company would produce operating revenues of $3,899,004. In Stone Exhibit No. 4, Mr. Stone applied the rates proposed by the Company to the same volumes used in developing the revenues of $3,225,757 under end-of-period rates. The Company accepted Mr. Stone's adjusted revenue figures for the production of revenues under the proposed rate increase. The Commission, therefore, concludes that the rates proposed by the Company will produce revenues of $3,899,004.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Company witness Ciavardini presented total operating expenses of $3,296,742 after accounting and pro forma adjustments. Mr. Kent made the following adjustments to the operating expenses presented by Mr. Ciavardini:

Increase in cost of gas	$ 22,058
Decrease in pension expense	(1,290)
Decrease in company wage adjustment	(11,555)
Decrease in insurance expense	(1,564)
Decrease in taxes - other than income	(10,219)
Decrease in depreciation expense	-
Elimination of expense projection	(68,231)
Increase in expenses to include interest on average customer deposits	2,978
Decrease in income taxes	(57,088)
Total decrease in expenses	$(124,911)

The adjustment to the cost of gas of $22,058 results from errors in Company figures based on estimated volumes at end-of-period rates.

The wage adjustment of $11,555 by Staff witness Kent results primarily from the exclusion of salaries paid to personnel during the test period who were no longer employed with the Company at the end of the test year while salaries were normalized for new personnel. Staff witness Kent eliminated the Company adjustment of $68,231 intended to annualize operating expenses to the level of recorded expenses during the last four months of the test year. Mr. Kent stated that while there may be an element of inflation in the future, he could not agree with the projection of expenses as determined by Mr. Ciavardini. These expenses were entirely an estimate at the time of filing; at the hearing, the Company introduced additional exhibits to support this adjustment. Mr. Kent stated that the expenses could fluctuate up or down depending on the short period used as a comparison. He stated that had the eight months ended 8-31-75 been compared with the 8-31-77 period, a decrease in expenses of 19.06% would result and a comparison of the eight months ended 8-31-76 with 8-31-75 would produce a 34% decrease in expenses. Mr. Kent also stated that, until the supplemental exhibit was filed on the day of the hearing, he had been unable to obtain any information from the Company as to how the $68,000 adjustment had been calculated. In the supplemental exhibit presented at the hearing, a portion of this adjustment was dedicated to wage increases, said to have resulted from union negotiations.

Late-filed exhibits were requested by the Commission to support the expense projections. The late-filed exhibits indicate an increase of $29,342 in operating expenses as compared to the supplemental exhibit (Exhibit A, page 1 of 3) amount of $39,320. Following the Company's methodology, this would translate into an adjustment of $44,011 ($29,342 ÷ 2/3) or $14,970 less than the $58,981 the Company included on supplemental Exhibit A, page 1 of 3. The Commission is of the opinion that the annualization of an eight months' period to calculate an adjustment to operating expenses is unreliable and invalid due to the widely fluctuating results obtained depending on the periods compared as well as the inconsistencies that exist in the Company's original adjustment, supplemental exhibit adjustment, and the adjustment in the late-filed exhibits.

The late-filed exhibits do show, however, that a wage settlement made by the Company effective August 1, 1977, would add $31,070 to the annual operating expenses of the Company. The Commission believes that the wage settlement made by the Company effective August 1, 1977, would result in an increase in annual operating expenses of approximately $31,070.

The Commission, therefore, adopts $3,187,018 as the proper level of operating expenses for use herein, which sum is the $3,171,831 proposed by Staff witness Kent adjusted to include $31,070 of additional wage expense and the related income tax effect of the wage adjustment of $15,883.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Since there is no indication at the present time that volumes of gas available for sale may be substantially increased in the near future and there being no basis for assuming any substantial growth in customers or sales, the Commission concludes that it would be unreasonable to adjust the revenues and expenses by an annualization factor.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence for this Finding of Fact is to be found in Staff Accountant Kent's testimony as referred to hereinabove in Findings of Fact Nos. 3, 5, 6, and 7, the Evidence and Conclusions for such findings, and the Company's schedules and exhibits concerning end-of-test-period book common equity. The rates of return which result from these earlier findings are derived by simply making the proper divisions of net operating income for return (less interest where appropriate) by (a) the fair value as heretofore determined, (b) the actual per books common equity investment, and (c) the per books common equity plus the fair value increment.

No prudent investor, given the present day risks inherent in the natural gas business (e.g., customer demands, curtailment of supply and temperature variations), would conceivably risk his investment capital for an anticipated loss of an actual investment. The Commission, therefore, concludes that the revenues and rates of return earned by Penn & Southern during the test year are unjust and unreasonable since they are insufficient to allow the Company to meet the earnings standards prescribed by G.S. 62-133(b)(4).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this Finding of Fact was presented in the testimony of Company witnesses Ciavardini and Lohmann and Public Staff witnesses Kent and Kiltie.

Mr. Ciavardini's Exhibit No. 7 shows that the full amount of the rate increase requested by the Company, including all adjustments made or accepted by the Company, would produce a rate of return of 8.92% on the fair value of its property and 12.27% on common equity. Mr. Kent testified that after Staff adjustments the proposed rates would produce a rate of return of 10.37% on original cost net investment and a return of 14.25% on book common equity.

Mr. Lohmann testified that the Company's current rate of return was insufficient to satisfy the tests of G. S. 62-133(b)(4) and that, even if the full increase were allowed, the return is "... well below 15% which we believe would be the minimum return that investors would find attractive in today's market." He stated on cross-examination, however, that he did not perform any rate

of return or cost of capital studies and did not consider himself to be an expert in this area. Mr. Lohmann agreed that the rate of return recommended by Staff witness Kiltie, if it could be earned, would be sufficient for Penn and Southern, since it exceeds what the Company's new figures show it would earn if all of the proposed increase were allowed.

Public Staff witness Kiltie recommended that Penn & Southern be allowed to earn a rate of return of 12.5% on its common equity and 9.5% on its original cost net investment. His opinion was based upon a comparison of Penn & Southern to 12 natural gas companies whose shares are actively traded, using the Discounted Cash Flow (DCF) approach. Having thus determined the cost of common equity to Penn & Southern, he arrived at a weighted cost of all capital using an adjusted December 31, 1976, capital structure and cost rates for debt provided by the Company.

Although the DCF is theoretically the most precise method of determining cost of equity capital since it is derived from market data which encompasses factors of actual performance, the economy, generally, inflation, outside influences, and investor expectations, Mr. Kiltie performed other tests as a check on his DCF results. These may be briefly summarized as follows:

(1) Trends in cost of capital. Mr. Kiltie noted that, although the Commission approved a rate of return of 13.5% on Penn & Southern's common equity in Docket No. G-3, Sub 58, the cost of capital has significantly declined since the test period in that case. As evidence for this position, he recited (a) a decline in the annual rate of inflation from 15.6% (August 1974) to 3.6% (August 1977); (b) a decline in the cost of new "A" rated utility bonds from 11% (September 1974) to less than 8.5% (September 1977); (c) a decline in the prime interest rate from over 12% (September 1974) to 7-1/4% (September 1977); (d) a decline in the risk to the Company's investors due to the implementation of the volume variation adjustment clause, the exploration surcharge, and the emergency purchase surcharge; and (e) improved prospects for future supplies of natural gas.

(2) Comparison to recent Commission Orders. Mr. Kiltie noted the Commission's recent Orders in Docket No. G-9, Sub 158, and G-5, Sub 119, wherein Piedmont Natural Gas Company and Public Service Company of North Carolina were allowed returns on common equity of 12.75% and 13.25%, respectively. Mr. Kiltie stated that, since the financial risk to Penn & Southern was less due to its higher equity ratio, this tended to support a 12.5% cost rate for Penn & Southern's common equity.

(3) Times interest earned test. Witness Kiltie stated that his recommended level of return, if earned, would produce a pre-tax interest coverage of 4.7 times. This

level of coverage is ample protection for the debt holder and exceeds the level of coverage presently being earned by many utilities whose bonds are "A" rated.

Based on Finding of Fact No. 9 above, the Commission is of the opinion that the Company has demonstrated a need for a substantial increase in its rates and charges. Because of the ongoing inflation, increased costs of debt and equity capital in the money markets, and uncertainties of today's economy, the Company is entitled to a reasonable return on the fair value of its property. However, because of the effects that the Commission's Finding of Fact No. 12, supra, and its related Conclusions and Ordering Paragraphs will have on protecting the Company from any future variations in levels of curtailment, the Commission is of the opinion that the need for additional gross revenues is not as great as contended by the Company.

The Commission concludes that Penn & Southern should have the opportunity to earn a return of approximately 7.55% on the fair value of its North Carolina property used and useful in rendering gas utility service as determined hereinabove. Such a rate of return will produce a return on common equity of approximately 12.50% and a return on fair value equity of approximately 8.19%. The Commission concludes that these rates of return will be sufficient to produce a fair profit for the Company's stockholders, to maintain its facilities and service in accordance with the reasonable requirements of its customers, and to compete in the market for capital funds on reasonable terms.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The schedule set forth in Finding of Fact No. 7, supra, shows that a net operating income for return of approximately $325,372 will be required to produce a return of 7.55% on the fair value of the Company's property as heretofore determined. In order to achieve such income for return, the Company will have a gross revenues requirement of $3,867,848. The Company's test year revenues, after the Staff's adjustments are $3,225,757 in Finding of Fact No. 6. The difference between the Company's test year revenues as adjusted and the gross revenue requirement needed to produce a 7.55% return on fair value is $642,091. The Commission, therefore, concludes that the Company has a need to increase its gross earnings in the amount of $642,091.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for this Finding of Fact was found in Docket No. G-3, Sub 58, in the testimony of Company witness Coulter, the testimony of Staff witness Stone, the Commission's official files and records on this point in Docket Nos. G-100, Sub 18 (Curtailment Priorities for Shortage of Natural Gas), G-9, Sub 131 (Piedmont Natural Gas Rate Case), and G-5, Sub 102 (Public Service Company Rate Case), which are incorporated herein by reference, the

proceedings before the Federal Power Commission (FPC, now the Federal Energy Regulatory Commission or FERC) in its Docket No. RP72-99 (Transco Curtailment Proceeding), and related court cases. These facts have not changed substantially at the present time.

Curtailment of natural gas to North Carolina distribution companies, including Penn & Southern, has been steadily increasing since 1971, when Transco's supplies first fell short of the contract demands placed on it by its customers. Transco is the only pipeline supplying North Carolina gas utility companies. Its ability to meet its full contract demands continues to decrease. The deepening shortfall of gas energy supply has not been constant and steady but has fluctuated from month to month and from season to season. Often, actual deliveries were quite different from earlier projections of such deliveries.

The other factor, aside from Transco's decreasing supplies, which affects the actual amount of gas received in North Carolina is the curtailment plan approved by the FPC (FERC) for Transco. Hearings have been held before the FPC (FERC) and three separate types of plans considered.

The Commission in its Order of January 3, 1975, in Pennsylvania and Southern's last general rate case, Docket No. G-3, Sub 58, approved a curtailment tracking adjustment (CTA) 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 CTA was modified by subsequent Order of the Commission. The Commission concludes that the CTA is a reasonable and necessary rate-making tool due to the continuing uncertainty of the gas supply situation. The Commission, therefore, concludes that the CTA should continue to be a part of the Company's rates.

Using the most recent projections from Transco available at the time of the hearing, the Commission further concludes that the volumes, revenues, gross receipts tax, cost of gas, and base margin to be used in the CTA are as follows:

VOLUMES

		MCF
Total supply		1,387,794
Less: Company use	2,467	
Unaccounted for	84,998	87,465
Total MCF sales		1,300,329
Minimum bill volumes (MCF)		84,411

Revenues, Cost of Gas, Gross Receipts Tax and Base Margin*

		Amount
Gas sales revenues		$3,867,848
Less: Cost of gas	$2,178,337	
Gross receipts tax	232,071	2,410,408
Base margin		$1,457,440

* Corrected by Order in Docket No. G-3, Sub 76, dated 3-2-78

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13 AND 14

The rate schedules as proposed by the Company would produce test year revenues of $3,899,004 according to Staff calculations in Evidence and Conclusions for Finding of Fact No. 6 above. These revenues exceed, by approximately $31,156, the Company's gross revenue requirement as heretofore determined of $3,867,848, which will be necessary to produce a 7.55% return on the fair value of the Company's property. The Commission, therefore, concludes that the rate structure proposed by the Company is unjust and unreasonable and should not be allowed.

Public Staff witness Stone testified that the present rate structure should be revised to conform to the new priority system 0 soon to be adopted by the Commission and that he would file a late exhibit presenting a revised rate structure. (Two other purposes of the changes proposed by Mr. Stone were to simplify the rate structure and to eliminate promotional rates.) That exhibit was filed on November 30, 1977. The five major changes proposed by Mr. Stone are briefly discussed below:

(1) Consolidate existing Schedules A (Residential) and A-1 (Multiple Dwelling Service). This change would simplify the rate structure by eliminating one rate schedule. Evidence at the hearing tended to show that there was only one customer in Schedule A-1 and that such customer used less than 50 MCF per day, all for residential purposes.

(2) Combine Schedule A-3 (Schools) with Schedule C (General Commercial). The end use of gas in both of these rate schedules is nearly identical; i.e., both types of customers primarily use small to intermediate volumes of natural gas for daytime, space heating purposes. Further, public schools have traditionally been accorded preferential or promotional rate treatment by all natural gas companies. Thus, this proposed change would further simplify the rate structure and remove a promotional rate.

(3) Change Rate Schedule E-1 (Industrial Service Rate) to a flat rate. The present and Company proposed Rate Schedule E-1 is a three-step, declining block rate which is, by definition, promotional; i.e., the more gas consumed, the lower the per unit cost of the gas. A flat rate would be easier to administer, would simplify the rate structure, and would remove another promotional rate.

(4) Change Schedule G (Ceramic Interruptible) to a flat rate and consolidate with Schedule F (General Interruptible). Rate Schedule F is already a flat rate. Rate Schedule G is a two-step, declining block rate which is promotional as defined above. Given the size of Penn & Southern and present curtailment levels, there is no need for two industrial, interruptible rate schedules. Adoption of the Staff's proposal would further simplify the overall rate structure, decrease administrative expenses, and remove the promotional aspect of Rate Schedule G.

(5) Eliminate Rate Schedules H (Storage Gas Service) and I (Large Volume Interruptible Summer Gas). Evidence at the hearing tended to indicate that Rate Schedule I was identical to Rate Schedule F; that Duke Power Company was the only customer in Rate Schedule I; that no customers were being carried in Rate Schedule H; and that there were no test year sales in either of these two rate schedules. There is no necessity for the continued existence of these rate schedules since they are no longer used.

On October 25, 1977, the Commission issued an Order in Docket No. G-100, Sub 24, establishing new priorities for curtailment of natural gas service. The Commission takes judicial notice of the provisions of that Order.

The Commission concludes that the revised rate structure presented in Public Staff witness Stone's late-filed exhibit is just and reasonable and that rates approved in this proceeding should be based on this revised rate structure and the new priority system.

IT IS, THEREFORE, ORDERED as follows:

1. That the Public Staff - North Carolina Utilities Commission shall prepare and file schedules of rates and charges, based upon the revised rate structure proposed herein and hereby approved, designed to produce total annual gross revenues of $3,867,848 on test year contract demand volumes of 1,300,329 Mcf available for sale by Pennsylvania and Southern Gas Company, North Carolina Gas Service Division.

2. That Penn & Southern shall file tariffs to become effective on one day's notice reflecting the adjustments and increases in rates and charges approved herein.

3. That the CTA shall continue to be a part of the Company's rates and charges calculated using base data contained in this Order in Evidence and Conclusions for Finding of Fact No. 12.

4. Penn & Southern shall notify its customers concerning the effect on them of the rate increase granted herein by appropriate billing insert along with the next bill sent to each customer after the date of this Order.

5. That the Undertaking for Refund filed on September 14, 1977, in this docket is hereby discharged.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of February, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 176

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 SETTING RATES

HEARD IN: Education Center, Charlotte, North Carolina, on Tuesday, May 30, 1978; Guilford County Courthouse, Greensboro, North Carolina, on Wednesday, May 31, 1978; Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on Thursday and Friday, June 1 and 2, 1978, and Tuesday and Wednesday, June 6 and 7, 1978

BEFORE: Commissioner Robert Fischbach, Presiding; and Commissioners Sarah Lindsay Tate and Ben E. Roney

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, Attorneys at Law, P.O. Drawer U, Greensboro, North Carolina 27402

For the Intervenors:

Thomas R. Eller, Jr., Attorney at Law, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

Dennis Myers, Associate Attorney General, Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Jerry B. Fruitt, Chief Counsel, Public Staff, and Dwight W. Allen, Staff Attorney, Public

Staff, North Carolina Utilities Commission,
P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On December 30, 1977, 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 for retail natural gas in North Carolina.

The Commission on January 24, 1978, issued an Order setting the matter for hearing, suspended the proposed rates for a period of 270 days from the effective date of February 1, and required that public notice be given.

On January 11, 1978, the Public Staff, by and through its Executive Director, Hugh A. Wells, filed notice of intervention on behalf of the using and consuming public. Such intervention was recognized in the Commission's Order Setting Hearing issued on January 24, 1978. The Attorney General also filed a notice of intervention on behalf of the using and consuming public on January 26, 1978, which intervention was recognized by Commission Order issued April 12, 1978. A Motion for Leave to Intervene was filed on behalf of the North Carolina Textile Manufacturers Association, Inc., on April 11, 1978, which motion was allowed by Commission Order issued April 18, 1978. On May 5, 1978, a Motion for Extension of Time to File Testimony was filed by the Public Staff. Such Motion was granted by Commission Order issued on May 8, 1978.

On May 1, 1978, representatives of Piedmont, the Public Staff, and intervenors met with the Commission to discuss Piedmont's proposed formula for the allocation of the natural gas supply between North Carolina and South Carolina which would have an effect on this rate case. On May 8, 1978, the Commission issued its Order adopting the apportionment plan with some modification.

The Company filed a revised petition on May 16 amending its request for additional revenues from $5,984,207 to $6,973,997.

The matter came on for hearing as scheduled in the Order Setting Hearing.

The Company presented the direct testimony and exhibits of six witnesses as follows:

J.D. Pickard, President and Chief Executive Officer of Piedmont, testified to Piedmont's history, its service area, its customers, its sources of gas supplies, and its employees.

Ted C. Coble, Assistant Controller of Piedmont, testified to Piedmont's accounting exhibits (with the exception of revenues and cost of gas).

Everette C. Hinson, Vice President and Treasurer of Piedmont, testified to Piedmont's financing history during the period 1972 through the end of the test period, Piedmont's present financial condition, Piedmont's need for rate relief to meet its financial needs, and Piedmont's proposal to withdraw its curtailment tracking adjustment (CTA).

Richard S. Johnson, Vice President of Stone & Webster Management Consultants, Inc., testified for the Company as an expert in rate design and presented the Company's cost-of-service study.

Ware F. Schiefer, Assistant Vice President of Piedmont, testified to the cost of competitive fuels and the design of the proposed rate schedules.

Ronald B. Paige, Vice President of Kidder, Peabody & Co., Incorporated, testified for the Company as an expert in the areas of cost of capital and fair rate of return.

The Public Staff offered the testimony and exhibits of eight witnesses as follows:

J. Craig Stevens, Director, Consumer Services Division, testified to complaints received by the Consumer Services Division from customers of Piedmont Natural Gas Company, Inc., during the last two calendar years.

Jana K. Hermic, Accountant for the Public Staff, presented testimony concerning the Company's test period original cost net investment, revenues, expenses, and return on original cost net rates and under the Public Staff's proposed rates.

Dr. Colin C. Blaydon, Principal of ICF, Incorporated, testified to the results of a gas rate study performed by ICF for the Public Staff.

Wesley A. Magat, Consultant, ICF, Incorporated, presented the rate design model and cost estimates used in the ICF analysis.

Donald E. Daniel, Assistant Director of Accounting for the Public Staff, testified to the Public Staff's recommended rate-making treatment for unamortized Job Development Credits and stockholder funds invested in the Company's approved exploration programs, and to the Public Staff's position on Piedmont's proposal to withdraw its curtailment tracking adjustment.

Eugene H. Curtis, Jr., Utilities Engineer for the Public Staff, presented a cost-of-service study.

Daniel M. Stone, Utilities Engineer for the Public Staff, presented testimony on the proposed pro forma volumes, purchased gas cost, revenues, and rate design for the 12 months ended September 30, 1977.

Thomas M. Kiltie, Director of the Economics and Research Division of the Public Staff, testified to Piedmont's cost of capital and required fair rate of return.

Mark Henry Werner testified as a public witness that the Commission should reject Piedmont's requested rate increase.

Dr. Edward W. Erickson, Professor of Economics and Business, North Carolina State University, offered rebuttal testimony to the Public Staff's position on cost of capital and fair rate of return as testified to by witness Kiltie.

Following the receipt of all testimony and exhibits, it was agreed that Legal Briefs and Proposed Findings of Fact and Conclusions of Law could be filed by all parties, and the record in this docket was closed.

Based upon the entire record 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 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 ended September 30, 1977.

3. That the annual increase in revenues sought by Piedmont under its proposed rates as filed in this proceeding on May 16, 1978, is $6,973,997.

4. That Piedmont is providing adequate natural gas service to its existing customers in North Carolina to the extent that it is able 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 $111,780,320. To this amount should be added leasehold improvements net of amortization of $29,953, and from this amount should be deducted the accumulated depreciation associated with the original cost of this plant of $30,470,919 and customer advances for construction of $355,234. This results in a reasonable original cost less depreciation, or a net gas plant in service, of $80,984,120.

6. That the reasonable allowance for working capital for Piedmont Natural Gas Company, Inc., is $7,998,486.

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 adding additions and subtracting retirements and depreciation since Piedmont's last general rate case from the fair value of such plant as established in said last rate case. By this method, the Commission finds that the fair value of Piedmont's utility plant devoted to gas service in North Carolina is $112,250,753. This includes a reasonable fair value increment of $30,941,352.

8. That the fair value of Piedmont's plant in service to customers within the State of North Carolina consists of $112,250,753, plus the reasonable allowance for working capital of $7,998,486, less customer advances for construction of $355,234, plus net leasehold improvements of $29,953, less cost-free capital of $3,126,726. This yields a reasonable fair value of Piedmont's property used and useful to North Carolina customers of $116,797,232.

9. That Piedmont's test year operating revenues, after appropriate accounting and pro forma adjustments, under present rates are approximately $68,390,252 and under the Company's May 16, 1978, proposed rates would have been approximately $75,364,249.

10. That the level of Piedmont's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $62,584,234 which includes the amount of $3,121,419 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	56.65
Preferred Stock	2.68
Common Equity	40.67
Total	100.00

12. That when 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	41.64
Preferred Stock	1.97
Common Equity	56.39
Total	100.00

13. That the Company's proper embedded cost of debt and preferred stock are 7.50% and 5.22$, respectively. The rate

of return which should be applied to the fair value of property (or rate base) is 7.13%. This return on Piedmont's rate base will allow the Company the opportunity to earn a return on fair value equity of 6.92%, after recovery of the embedded costs of debt and preferred stock. This return on fair value equity results in a return of 13.06% on original cost common equity. Such returns on rate base, fair value equity, and common equity are just and reasonable.

14. That Piedmont's pro forma return on the fair value of its property (or rate base) at the end of the test year is approximately 4.97% which is less than the Commission has determined to be just and reasonable. Therefore, in order to earn the level of returns which the Commission finds to be just and reasonable, Piedmont should be allowed to increase its rates and charges so as to produce an additional $5,527,619 based on operations during the test year, modified to reflect the provisions of the Commission's Order of May 8, 1978, regarding natural gas apportionment. The Commission finds that, given efficient management, this amount of additional gross revenue dollars will afford the Company an opportunity to earn the levels of return on rate base, fair value equity, and original cost equity which the Commission has found to be fair, both to the Company and to its customers.

15. The schedule of rates and charges attached hereto as Appendix A of this Order is hereby found to be just and reasonable and should be used by the Company to generate the amount of additional annual gas sales revenues ($5,527,619) found proper and reasonable for Piedmont.

16. That the curtailment tracking adjustment (CTA) heretofore approved for use by Piedmont, and modified in various prior proceedings before this Commission, is a just and reasonable rate-making device to protect Piedmont from wide fluctuations in the level of curtailment from its pipeline supplier and to protect 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 $28,843,824 (the difference between test-year revenues, less associated gross receipts taxes and test-year revenues, less cost of gas). The new base period supply volumes which are appropriate for use in future CTA filings are 274,421,098 therms.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 THROUGH 4

The evidence for these findings is contained in the verified application, the Commission's Order Setting Hearing and Investigation and the testimony of Company witnesses Pickard, Hinson and Coble and Public Staff witnesses Hemric and Stevens. The evidence was uncontradicted and

uncontested. These findings are essentially informational, procedural, and jurisdictional in nature.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Both Company witness Coble and Public Staff witness Hemric presented identical amounts for gas plant in service, leasehold improvements net or amortization, accumulated depreciation and customer advances for construction. The resulting net original cost of gas plant in service is as follows:

Original cost of gas plant in service			$111,780,320
Plus: Leasehold improvements			29,953
			$111,810,273
Less: Accumulated depreciation		$30,470,919	
Customer advances for construction		355,234	30,826,153
Net original cost of gas plant in service			$ 80,984,120

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 $80,984,120.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The Public Staff's computation of working capital is found in Hemric's Exhibit 1, Schedule 2. At the hearing, counsel for the Public Staff stated that if the actual test year level of interest on customer deposits is included in the cost of service then the Public Staff would agree that average, rather than year-end, customer deposits should be used in computing working capital. No other party presented any evidence with respect to the computation of working capital. Piedmont accepted the Public Staff's calculation of working capital as adjusted during the hearing.

The Commission, as will be discussed subsequently, has included in the test year level of gas volumes available for sale 540,790 MCF above the level proposed by the Company in its revised filing. This addition makes the test year level of gas volumes available for sale reflect the total gas volumes available for sale based upon design weather conditions.

The Company's justification for excluding this increment of gas supply was that in the event of a normal winter this volume should not be sold to low priority customers but should be kept in storage for sale in the following winter. This would preclude the need to purchase 540,790 MCF of emergency gas volumes. If such a reduction is not reflected in test year operations, the Company could be left with two undesirable courses of action. (1) The Company could elect to keep the gas in storage for future use, but this would postpone to a later accounting period, or perhaps

indefinitely, the recovery of the CTA "margin" thereon; or, (2) The Company could elect to sell the gas to low priority customers, but thereby create the need to purchase additional emergency gas volumes to meet future sales to priorities 1 and 2.

The Commission believes it is in the best interest of both the Company and its customers to minimize the purchase of emergency gas. The Commission also believes that it would be inequitable to require the Company to postpone to a later accounting period, or perhaps indefinitely, the recovery of the "margin" on gas volumes carried forward into a future period. As will be discussed subsequently, the Commission finds that in future true-ups of revenues collected under the CTA surcharge for Piedmont, recognition shall be given to gas volumes placed in storage for carry over into the following winter season. This will allow Piedmont to recover through the CTA the margin postponed due to the placement of gas volumes in storage for later use. Since the base period margin does not include the "cost of gas" the Commission is of the opinion and so concludes that the cost of gas to be placed in storage should be included in the allowance for working capital.

The Commission, therefore, concludes that the proper level of working capital for use in this proceeding should be calculated as follows:

Item	Amount
1/8 of operation and maintenance expense	$1,414,327
Compensating balances	2,002,050
Materials and supplies (average)	6,530,983
Average prepayments	735,220
Average tax accruals	(2,467,401)
Customer deposits	(904,702)
Gas held in storage	688,009
Total Working Capital	$7,998,486

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7 AND 8

The Commission is of the opinion and so concludes that since no Replacement Cost Study was offered into evidence the fair value of Piedmont's plant used and useful in providing natural gas service to North Carolina should be derived by updating its most recent fair value determination to September 30, 1977. The fair value of $112,250,753 is found in Company witness Coble's Revised Exhibit No. 1, Schedule 4. This fair value of plant-in-service includes a fair value increment of $30,941,352 derived from deducting the net original cost of plant of $81,309,401 ($111,780,320-$30,470,919) from the fair value of plant-in-service of $112,250,753.

In determining the total fair value of Piedmont's property-in-service of $116,797,232 the Commission has added

to the fair value of Piedmont's plant-in-service of $112,250,753 the allowance for working capital found proper in Finding of Fact No. 6 of $7,998,486, net leasehold improvements of $29,953 (Finding of Fact No. 5), and has deducted customer advances for construction of $355,234 (also Finding of Fact No.5) and accumulated deferred income taxes of $3,126,726.

Testimony regarding the proper rate-making treatment of deferred income taxes was presented by Public Staff witness Hemric and Company witness Coble. The Public Staff recommended that accumulated deferred income taxes be deducted by the Commission in its determination of the fair value of property used and useful in providing public utility services. Company witness Coble recommended that the deferred income taxes be included in the capital structure at zero cost and that the resulting capitalization ratios form the basis for the allocation of the deferred income taxes to the Company's utility operations.

At the hearing, Company witness Hinson offered testimony and an exhibit for capital structure which reflects an updating to March 31, 1978, and which incorporates the Public Staff's exclusion of JDIC and adjustments for accumulated deferred income taxes and subsidiary operations. Witness Hinson stated that he did not contest the Public Staff's position with respect to these adjustments.

Therefore, the Commission has adopted the Public Staff's recommendation with regard to accumulated deferred income taxes.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 AND 10

The evidence supporting these findings of fact is found in the verified petition and in the testimony and exhibits presented by Company witnesses Hinson and Coble, and Public Staff witnesses Hemric and Stone.

Piedmont and the Public Staff are in substantial agreement with respect to the net operating income available for return under the present rates. The Company accepted the Public Staff's computation of net income for return as revised at the hearing to correct certain errors in the calculations of cost of gas and revenues and to include certain adjustments proposed by Piedmont and agreed to by the Public Staff. These revisions were as follows:

1. $206,541 additional revenues to correct error;

2. $174,564 additional cost of gas to correct error;

3. $111,274 additional operation and maintenance expense to include the following additional expenses incurred by Piedmont prior to the closing of the hearing in this docket:

(a) $32,000 (1/5th of management audit fee of $160,000);

(b) $53,170 (additional pension costs);

(c) $26,104 (additional postage cost);

4. $12,392 gross receipts taxes on additional revenues [.06 x $206,511];

5. $5,501 North Carolina income tax due to above adjustments [.06 (206,541 - 174,564 - 111,274 - 12,392)];

6. $41,370 reduction in Federal income taxes due to above adjustments [.48 (206,541 - 174,564 - 111,274 - 12,392 + 5,501)]; and

7. $16,722 to restore interest on customer deposits actually incurred.

Both the Company and the Public Staff based their calculation of the test year level of revenues and expenses on a level of gas volumes which was 540,790 MCF less than the total gas volumes available for sale. The Commission, as previously discussed, after having very carefully considered the evidence presented by the Company in support of its proposal, and as a result of provisions contained herein, believes that such a reduction in gas volumes available for sale is unwarranted and not in keeping with the "normalization concept" in the fixing of rates; and, therefore, is inappropriate for use in this proceeding.

The Commission, therefore, has increased the test year level of revenues, expenses and operating income. As discussed previously, all other adjustments were agreed to by the parties. The Commission's adjustments are as follows:

Item	Amount
Operating Revenues	$1,175,684
Cost of Gas	688,009
Uncollectibles Expense	8,407
Gross Receipts Tax	70,037
Income Taxes - State & Federal	209,199
Total Expenses	$ 975,652
Operating Income	$ 200,032

The Commission therefore concludes, for purposes of this proceeding, that the proper level of Piedmont's revenues, expenses and net operating income for return under present rates after accounting and pro forma adjustments is as follows:

Description	Amount
Operating revenues	
Sales of gas	$68,286,814
Other operating revenues	103,438
Total operating revenues	68,390,252
Operating expenses	
Cost of gas	40,541,774
Operation and maintenance	11,323,020
Depreciation	3,121,419
Taxes - other than income	5,697,250
Income taxes - State	232,417
Income taxes - Federal:	
Current and deferred	1,321,446
Investment tax credit	349,256
Amortization of investment tax credits	(62,425)
Total operating expenses	62,524,157
Net operating income	5,866,095
Interest on customer deposits (deduct)	(60,077)
Net operating income for return	$ 5,806,018

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11-12

The capital structure as presented in the Company's filing and as presented by the Public Staff differed in the following respects:

1. In its filing, the Company used its capital structure at September 30, 1977. The Public Staff updated the capital structure to December 31, 1977. During the course of hearings in this docket, the Company contended that the capital structure should be further updated to March 31, 1978.

G.S. 62-133(c) permits the updating of historical test period data to show actual changes occurring up to the time the hearing is closed. Indeed, the Public Staff recognized the appropriateness of such updating when it updated the capital structure from September 30, 1977, to December 31, 1977.

The Commission believes that the purpose of the test year concept in the fixing of rates is to arrive at an annual level of revenues and costs that is representative of the level the Company can be expected to experience on an on-going basis.

The Commission has reviewed Piedmont's capital structure in prior periods and concludes that the capital structure should be updated to March 31, 1978, because this adjustment reflects a known change prior to the close of hearing and is a change the Commission deems reasonable and appropriate.

2. The Company treated accumulated deferred income taxes as a cost-free item in the capital structure, whereas the

Public Staff excluded this time from the capital structure and took it as a deduction to rate base.

This issue was discussed under Evidence and Conclusions for Findings of Fact Nos. 7 and 8 and need not be repeated here. The Commission concludes, therefore, that the accumulated deferred income taxes shall not be included in the capital structure.

3. The Public Staff deducted the Company's investment in approved exploration programs from common equity, which has the effect of treating this investment as if it had been provided 100% by the Company's common stockholders. The Company did not make this deduction, which has the effect of treating this investment as if it were supported by the total capital structure. Both the Company and the Public Staff made an addition to common equity to reflect the Company's losses attributable to these approved exploration programs.

The Commission has very carefully considered the evidence presented on the issue of company investments in approved exploration programs. The Commission takes note of the need for further evidence on the overall question of exploration programs and specifically how the benefits for both ratepayers and stockholders will be determined. This topic is scheduled for further hearings in Docket No. G-100, Sub 22, scheduled for later this year. For the purposes of this proceeding, the Commission concludes that both adjustments to common equity are improper and, accordingly, are disallowed.

4. In its filing the Company included the unamortized balance of the Job Development Investment Tax Credit (JDIC) as a part of common equity. The Public staff through the testimony of witness Daniel recommended excluding JDIC from the Company's capital structure. At the hearing, Company witness Hinson offered testimony and an exhibit for capital structure which reflects an updating to March 31, 1978, and which incorporates the Public Staff's exclusion of JDIC and adjustments for accumulated deferred income taxes and subsidiary operations. Witness Hinson stated that he did not contest the Public Staff's position with respect to these adjustments.

As previously stated in this Finding, the Commission adopts Piedmont's position to update the capital structure and, accordingly, excludes JDIC from common equity.

Based on the foregoing, the Commission concludes that the proper capitalization ratios for use in the proceedings are 56.65% long-term debt, 2.68% preferred stock, and 40.67% common equity, which ratios are calculated as follows:

Item	Amount	Percent (%)
Long-Term debt	$ 71,361,517	56.65
Preferred stock	3,380,700	2.68%
Common equity	51,229,717	40.67
Total	$125,971,934	100.00

When the excess of the fair value of Piedmont's property, or rate base, over the original cost net investment in the amount of $30,941,352 is added to the equity component of the capital structure, the resulting fair value capital structure is as follows:

Item	Amount	Capitalization Ratio (%)
Long-term debt	$ 48,637,356	41.64
Preferred stock	2,300,938	1.97
Common stock	65,858,938	56.39
Total	$116,797,232	100.00

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence supporting these findings of fact is contained in the Company's data responses on Form G-1, the testimony and exhibits of Company witnesses Paige and Erickson and the testimony and exhibits of Public Staff witness Kiltie.

There is no dispute with respect to the embedded cost of Piedmont's long-term debt and preferred stock. The Company and the Public Staff agree that the embedded cost of Piedmont's long-term debt and preferred stock are 7.50% and 5.22%, respectively. There being no evidence to the contrary, we adopt these costs.

Three witnesses presented evidence as to the cost of equity capital to Piedmont. Ronald B. Paige, Vice President of Kidder Peabody, testified that Piedmont should be allowed to earn between 14.37% and 15.03% on its book common equity. Michael Kiltie, of the Public staff, testified that Piedmont should be permitted to earn between 12.7% and 12.92% on book common equity. Dr. Edward Erickson, Professor of Economics and Business at North Carolina State University, testified that when Mr. Kiltie's DCF approach is properly used it produces a fair return on book common equity of 14.6% to 15.6%.

Mr. Paige employed two separate methods in determining his recommended rate of return on common equity of 14.37% to 15.03%. The basis for his first method was his opinion that the Company must maintain a single-A rating on its debt in order to be reasonably certain of access to the capital markets in "periods of extreme market stress." In the opinion of Mr. Paige, a single-A debt rating would require authorized rates designed to produce a pre-tax interest coverage of 3.5 times. Using a 6% attrition adjustment, Mr.

Paige contended that such rates would produce an achieved pre-tax coverage level of 3.29 times, which compares to an average pre-tax coverage of 3.31 times for the debt issues of natural gas distribution companies rated A by both Moody's and Standard and Poor's during 1977. Mr. Paige then concluded that a rate of return on book common equity of 14.37% would be required to provide this desired level of interest coverage.

The key parameter in Mr. Paige's second method was the dividend to book value ratio. Mr. Paige testified that a dividend to book ratio of 8.5% is required by investors to provide a market to book ratio of approximately 100% assuming a reasonable payout level. Mr. Paige based his opinion of an 8.5% dividend to book value ratio on an examination of the average D/B for those gas distribution companies within his 24-company sample group whose current market price exceeded book value. He then proceeded to argue that a dividend rate of $1.68 a share was necessary to produce a D/B of 8.5% for Piedmont, given his book value calculation of $19.74 per share. At a payout ratio of 60%, which he deemed appropriate, this dividend rate implied earnings per share of $2.80 or a return on book common equity of 14.18%. Mr. Paige adjusted his 14.18% rate of return by 6% for attrition, to arrive at an attrition adjusted return on common equity of 15.03%.

Mr. Kiltie derived an estimate of the cost of equity capital for Piedmont by performing a Discounted Cash Flow (DCF) analysis of the Company and a selected group of 16 natural gas distribution companies which he believed to be comparable in investment risk to Piedmont. Mr. Kiltie used 3 alternate techniques as checks on his DCF results:

1. The bond yield plus risk premium method;
2. The interest coverage method; and
3. An examination of the achieved rates of return on common equity in the unregulated industries.

Based on his DCF analysis of Piedmont, Mr. Kiltie concluded that the cost of common equity capital was within the range of 12.14% to 13.25% with a mid-point of 12.70%. He further stated that he did not recommend an adjustment in the allowed rate of return on equity for floatation costs of new common stock issues, since the Company has not issued new equity in the primary market since 1973 and has no apparent intention to do so in the foreseeable future. However, should the Commission choose to allow a floatation cost adjustment, Mr. Kiltie recommended that the authorized rate of return on book common equity be set no higher than 12.92%.

The rebuttal testimony of Dr. Erickson purported to show that the results of Mr. Kiltie's DCF analysis were sensitive to the assumptions which he made concerning the dividend yield and growth components of the DCF model.

The determination of cost of equity capital admittedly requires expert judgment. However, traditional methods and procedures couched in financial theory have been devised to eliminate as much judgment as possible. The use of these traditional methods has the added benefit of being proven over time.

The Commission is receptive to the final result of any analytical technique used to determine the cost of equity capital. Indeed, the Commission finds that a diversity of methodology is a desirable end in itself. However, any particular technique requires the use of expert judgment, and hence raises questions concerning the amount of objectivity used in the analysis.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in Utilities Commission, et al. v. Duke Power Company, 285 N.C. 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 nature of Piedmont's current investment needs, and their present status with regard to equity financing, as well as other testimony relating to rate of return, the Commission concludes that a rate of return of 7.13% 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. The actual return on book common equity yielded by the Fair Value rate of return herein found fair (7.13%) is approximately 13.06%.

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. 14

The Commission in its Order of May 8, 1978, in Docket No. G-9, Sub 181, approved a gas apportionment plan for Piedmont whereby all regular sources of gas would be apportioned to North Carolina based on the approved plan, and supplemental gas supplies would make up any deficiencies necessary to serve Priorities 1 and 2 under design weather conditions. The effective date of this plan, however, is contingent upon approval by both this Commission and the South Carolina Public Service Commission. Subsequent to the Commission's Order of May 8, 1978, the Company filed revised testimony and exhibits for the instant proceeding which reflect the necessary financial adjustments to comply with the provisions of the apportionment plan.

The following schedules, which incorporate the revised filing adjustments, summarize the gross revenues and rates of return which the Company should have a reasonable opportunity to achieve, based on 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. The Commission is convinced that Piedmont will take all such necessary actions to obtain concurrence in the apportionment plan by South Carolina and to promptly implement the gas supply provisions in accordance with this plan. However, the Commission is also advertent to the need to protect the interests of Piedmont's North Carolina customers in the interim. We therefore conclude that the Company shall file with this Commission an Undertaking in an amount not less than $1,500,000, which is the approximate benefit to North Carolina customers of not purchasing about 900,000 MCF of emergency gas.

SCHEDULE I
PIEDMONT NATURAL GAS COMPANY, INC.
DOCKET NO. G-9, SUB 176
STATEMENT OF FAIR VALUE RATE OF RETURN
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

Operating Revenues	Present Rates	Increase Approved	After Approved Increase
Gas Sales	$ 68,286,814	$5,527,619	$ 73,814,433
Other Operating Revenues	103,438	-	103,438
Total Operating Revenues	68,390,252	5,527,619	73,917,871
Operating Revenue Deductions			
Purchased Gas	40,541,774	-	40,541,774
Operation & Maintenance Expense	11,323,020	39,527	11,362,547
Depreciation	3,121,419	-	3,121,419
Taxes - Other than Income	5,697,250	329,286	6,026,536
State Income Taxes	232,417	309,528	541,945
Federal Income Taxes	1,321,446	2,327,653	3,649,099
Investment Tax Credit	349,256	-	349,256
Amortization of Investment Tax Credit	(62,425)	-	(62,425)
Total Operating Expenses	62,524,157	3,005,994	65,530,151
Net Operating Income	5,866,095	2,521,625	8,387,720
Interest on Customer Deposits	(60,077)	-	(60,077)
Net Operating Income for Return	$ 5,806,018	$2,521,625	$ 8,327,643
Original Cost Net Investment	$ 85,855,880	-	$ 85,855,880
Fair Value Rate Base	$116,797,232	-	$116,797,232
Rate of Return on Fair Value	4.97%	-	7.13%

SCHEDULE II
PIEDMONT NATURAL GAS COMPANY, INC.
DOCKET NO. G-9, SUB 176
STATEMENT OF RETURN ON FAIR VALUE COMMON EQUITY
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

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	$ 48,637,356	41.64	7.50	$3,647,802
Preferred Stock	2,300,938	1.97	5.22	120,109
Common Equity[1]	65,858,938	56.39	3.09	2,038,107
	$116,797,232	100.00	-	$5,806,018
Approved Rates - Fair Value Rate Base				
Long-Term Debt	$ 48,637,356	41.64	7.50	3,647,802
Preferred Stock	2,300,938	1.97	5.22	120,109
Common Equity[1]	65,858,938	56.39	6.92	4,559,732
	$116,797,232	100.00	-	$8,327,643

[1]Book common equity $34,917,586
Fair value increment 30,941,352
Total $65,858,938

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 Johnson and Schiefer and Public Staff witnesses Hagat, Blaydon, Stone, and Curtis.

1. Both the Company and the Public Staff have arranged their rate schedules in accordance with the priority system established by this Commission in Docket No. G-100, Sub 24. The Commission concludes that this grouping of rate schedules, which reflects the availability and reliability of gas service is appropriate.

2. The Company proposed the adoption of Rate Schedule 108 applicable to spot sales. Company witness Schiefer testified that Rate Schedule 108 is needed to prevent North Carolina from losing gas. North Carolina is already the most curtailed state in the United States, and

we do not wish to take any action to lose more gas. Although some of the parties indicated a concern that Rate Schedule 108 could be used to move substantial volumes of gas to favored customers, the Commission does not believe their concerns are fully justified. Rate Schedule 108 may be used "only in the event the Company has volumes of gas that cannot be sold under other rate schedules of the Company or placed into storage for subsequent sale." Further, there is no incentive for Piedmont to sell large quantities of gas under Rate Schedule 108 at prices less than it could sell it under other rate schedules. Finally, this Commission can easily monitor the sales of gas under Rate Schedule 108 to assure that it is not being used in a discriminatory manner. The Commission, therefore, concludes that Rate Schedule 108, modified to permit sales only to priorities below N.C.U.C. 1 and 2, shall be adopted on an experimental basis, provided that the negotiated rate never falls below the cost of gas to Piedmont. The Commission further concludes that the Company shall file monthly reports of all sales under Rate Schedule 108 along with an explanation of the need therefor.

3. Both the Company and the Public Staff recommended that the basic billing unit for Piedmont be changed from the cubit foot to the therm. This change was necessitated by a change in billing units to the Company from its pipeline supplier. None of the intervenors objected to this change, and the Commission concludes that it should be allowed. However, the Commission is concerned that there will be some confusion among customers because their meter reads in CCF and their billing will be based on therms. Piedmont should be sensitive to this and shall seek opportunities to alleviate a potential problem. At the least, Piedmont shall make available to its customers the information necessary to make the computational conversion from one system to the other.

It is our opinion, considering the cost of service studies, the marginal cost data, the historical rate comparisons, the competitive cost relationship between natural gas and other alternate energy sources, the need for a more simplified rate structure, and the desirability of encouraging consumer conservation, that rates designed according to the following guidelines are just and reasonable and should be approved.

(a) Rate 101 should allow some consumption (3 therms) at a minimum bill level. The Commission considers the minimum bill to be a more desirable method of recovering a portion of customer costs than the fixed charge proposed by the Company. In their Briefs in this docket, the Company proposed and the Public Staff supported a minimum bill of $4.75 which the Commission considers just and reasonable in light of testimony that it costs Piedmont approximately $4.00 per month to serve Rate Schedule 101 customers excluding the cost of gas.

(b) The rates should contain a summer-winter differential, which is appropriate in view of Piedmont's customer mix and historical consumption patterns. Both the Company and the Public Staff proposed a differential of approximately $.05 per therm which the Commission considers just and reasonable. This differential reflects the higher cost of service during the winter season due to storage costs. Additionally, the summer-winter differential will allow the Company to meet the price of competitive fuels which normally decreases by 10-15% in the summer.

(c) The rates should be flat and, by eliminating declining blocks, should encourage customer conservation.

(d) The rates should be uniform among the classes and thereby eliminate revenue variations caused by the shifting of volumes between customer classes.

(e) The rate structure should conform to the priority classification for service established by the Commission in Docket No. G-100, Sub 24.

(f) The rates should be designed to reflect the actual heat value of the gas, since the basic billing unit is being changed from the cubic foot to the therm.

(g) The tariffs to be filed in this docket should generate only the revenue requirement approved herein by the Commission.

The Commission concludes that the above guidelines are just and reasonable to all parties and that rates designed pursuant thereto will meet fully the criteria of G.S. 62-133(b)(5) and 62-140.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Curtailment Tracking Adjustment (CTA) was initiated for the purpose of stabilizing the base period margin (gas sales revenue less cost of gas less gross receipts tax), which had been subject to variation due to the curtailment of the Company's flowing gas supplies from Transco. Although the CTA does not and was never intended to guarantee a specific rate of return between general rate proceedings, it has tended to protect the Company's base period margin when fluctuations in flowing gas supplies have characterized annual operations.

The CTA is not without its problems, however, and the Commission is receptive to Piedmont's proposal that it be eliminated. Nevertheless, Transco's supplies have not yet stabilized; its natural gas deliveries continue to vary from its projections. Moreover, Transco's curtailment plan is subject to further change by the FERC and the Courts. For these reasons, the Commission concludes that it would be premature to eliminate the CTA from the Company's rate

structure until present uncertainties have diminished regarding future gas supplies.

The Commission further concludes that the new base period supply volume and the new base period margin should be calculated as follows:

Base period supply - Therms		286,895,348
Less: Company use and unaccounted for		12,474,250
Base period volume - Therms		274,421,098
Gas Revenues		$ 73,814,433
Less: Cost of gas	$40,541,744	
Gas receipts tax	4,428,865	
		44,970,609
Base Period Margin		$ 28,843,824

Further, the Commission concludes in future true-ups of revenues collected under the CTA surcharge that recognition should be given to gas volumes placed in storage to be carried over into the following winter season. This will allow Piedmont to recover through the CTA the margin lost due to the placement of gas volumes in storage for later use.

IT IS, THEREFORE, ORDERED as follows:

(1) That Piedmont Natural Gas Company, Inc., be, and the same is hereby, authorized to adjust and increase its rates and charges so as to produce additional annual revenues of $5,527,619. Such increase shall become effective on all gas sold as provided hereafter.

(2) That effective for all gas sold on or after August 7, 1978, Piedmont Natural Gas Company, Inc., is hereby allowed to place into effect the increased rates as set forth in Appendix A which rates are designed to produce additional annual revenues in the amount of $5,527,619.

(3) That the Company shall file amended tariffs reflecting the rates contained in Appendix A on or before August 11, 1978.

(4) That the proposed rates filed by Piedmont on December 30, 1977, which were designed to produce additional annual revenues of $5,984,207, be, and are hereby, disapproved and denied.

(5) That the proposed rates filed by Piedmont on May 16, 1978, which were designed to produce additional annual revenues of $6,973,997, be, and are hereby, disapproved and denied.

(6) That in future true-ups of revenues collected under the CTA surcharge, recognition shall be given to gas volumes

placed in storage for carry over to the following winter season so that Piedmont may recover through the CTA the margin postponed due to the placement of gas volumes in storage for later use.

(7) That the Company shall file monthly reports setting forth all sales of gas under Rate Schedule 108. Such report, at a minimum shall reflect by customer the number of therms sold, prices per therm, total billing, and an explanation of the need for each sale thereto.

(8) That Piedmont shall file within 10 days from the effective date of this Order an Undertaking to refund to its North Carolina customers an annual amount of not less than $1,500,000, which sum will protect such customers from increased rates until such time as the recently approved Apportionment Plan becomes effective.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of August, 1978.

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

APPENDIX A
PIEDMONT NATURAL GAS COMPANY, INC.
DOCKET NO. G-9, SUB 176
APPROVED RATE DESIGN

Rate Schedule		Charges	
101	First 3 therms or less	$ 4.75	per month
	First 3 therms or less (Heat Only)*	6.75	per month
	Summer (April - October)	.21293	per therm
	Winter (November - March)	.26293	per therm
102	Minimum charge	$ 8.00	per month
	Summer (April - October)	.21293	per therm
	Winter (November - March)	.26293	per therm
103	Minimum charge	$75.00	per month
	Summer (April-October)	.21293	per therm
	Winter (November-March)	.26293	per therm
104	All therms	$ .21293	per therm
105	Each fixture	$ 5.00	per fixture
106	Off-peak	$ .42033	per therm
	On-peak	.61584	per therm
107	Option A	$ .02444	per therm
	Option B	.04399	per therm

*Based on Minimum Bill Charge for Eight Months (October - May).

DOCKET NO. G-5, SUB 136

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 SETTING RATES

HEARD IN: Buncombe Superior Courtroom No. 2, Buncombe County Courthouse, Asheville, North Carolina, on Tuesday, April 25, 1978, at 9:30 a.m.

Gaston Superior Courtroom F, Gaston County Courthouse, Gastonia, North Carolina, on Wednesday, April 26, 1978, at 9:30 a.m.

The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 27, 1978, May 2-5, 1978, and May 9-11, 1978

BEFORE: Commissioner Robert K. Koger, Chairman, Presiding; Commissioners Ben E. Roney and Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P.O. Box 1406, Raleigh, North Carolina 27602

J. Mack Holland, Mullen, Holland & Harrell, P.A., Attorneys at Law, P.O. Box 488, Gastonia, North Carolina 28052
For: Public Service Company of North Carolina, Inc.

For the Intervenors:

Thomas R. Eller, Jr., Attorney at Law, NCNB Regional Operations Center, Suite 105, 1305 Navaho Drive, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association

W.I. Thornton, Jr., City Attorney - City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701
For: The City of Durham

For the Using and Consuming Public:

Robert F. Page and Theodore C. Brown, Jr., Assistant Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Dobbs Building, Raleigh, North Carolina 27602

Jesse C. Brake, Special Deputy Attorney General, Richard L. Griffin, Assistant Attorney General, and Dennis Myers, Associate Attorney General, Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602

BY THE COMMISSION: On December 15, 1977, Public Service Company of North Carolina, Inc. (Public Service, the Applicant, or the Company), filed an application with this Commission for authority to adjust and increase its rates and charges for retail natural gas service in North Carolina. The Applicant proposed to make the requested rate adjustments effective and applicable to all bills rendered on and after January 16, 1978.

The Attorney General of North Carolina filed a Notice of Intervention on December 19, 1977, which Notice was recognized by Order of the Commission issued on December 22, 1977.

On January 3, 1978, the Public Staff, by and through its Executive Director Hugh A. Wells, filed Notice of Intervention on behalf of the using and consuming public. Such Intervention was recognized by the Commission's Order Setting Hearing issued on January 12, 1978. On March 19, 1978, the City of Durham petitioned for Leave to Intervene and on March 21, 1978, the Commission issued an Order allowing the Intervention of the City of Durham. On April 1, 1978, the North Carolina Textile Manufacturers Association, Inc., filed for permission to intervene, and the Commission issued an Order allowing the Intervention on April 18, 1978.

On January 12, 1978, the Commission issued an Order Setting Hearing which declared the matter to be a general rate case under the provisions of G.S. 62-137, set the application of Public Service for investigation and hearing in Docket No. G-5, Sub 136, suspended the proposed rates, established and declared the test period for use by all parties to be the 12 months ended September 30, 1977, and required the Company to give prescribed notice of the application to the public in its general service area.

Between the time of the Commission's Order setting this matter for hearing and the actual beginning of public hearings, several motions were filed by various parties concerning supplemental testimony, extensions of time to file testimony, and other procedural matters. Such motions and the Commission's orders in response thereto are reflected in the Clerk's official files of this proceeding.

The matter came on for hearing as scheduled in the Order Setting Hearing, with the Company's having the burden of proof in showing that its present rates were unjust and unreasonable and that its proposed rates were just and reasonable.

The hearing began at 9:30 a.m. in Asheville, North Carolina, on Tuesday, April 25, 1978, with statements by two public witnesses. Thomasine Underwood testified that she was retired on a limited income and was basically opposed to any rate increase. Rachel Smith, an apartment house owner, complained of high gas bills and urged the Commission not to allow any increase in present rates.

At the hearing in Gastonia on Wednesday, April 26, 1978, the Commission heard testimony from one public witness, Ben A. Bracken, who requested the Commission to use great judgment in deciding the issues raised in the proceeding.

The Company offered the testimony of the following witnesses: Charles E. Zeigler, President and Chief Executive Officer of Public Service Company of North Carolina, Inc.; Crawford Marshall Dickey, Vice President, Gas Supply Services and Vice President and General Manager of Tar Heel Energy Corporation; Joseph F. Noon, Senior Vice President - Engineering and Operations Services; W. Clyde Rodgers, Senior Vice President of Finance and Administration of Public Service Company; E.L. Flanagan, Jr., Vice President and Treasurer of Public Service Company of North Carolina, Inc.; John D. Russell, Vice President of Associated Utility Services, Inc.; Richard S. Johnson, Vice President of Stone & Webster Management Consultants, Inc.; and Robert S. Jackson, Senior Vice President and Director of Stone and Webster Management Consultants.

Following the presentation of evidence by the Public Staff, Public Service offered rebuttal testimony by E.L. Flanagan concerning the appropriate capital structure for use in setting rates, the Job Development Investment Tax Credit (JDC), the appropriate treatment to be accorded certain items of "cost free" capital, the appropriate amount of working capital to be used in the rate base, and certain adjustments to Company expenses proposed by the Public Staff.

The Public Staff offered the testimony of the following eight witnesses: J. Craig Stevens, Director of the Consumer Services Division; Jesse Kent, Jr., Accountant for the Public Staff; Donald E. Daniel, Assistant Director of Accounting for the Public Staff; Dr. Wesley A. Magat, a Professor in the Graduate School of Business Administration at Duke University and a Consultant of ICF, Incorporated; Dr. Colin C. Blayden, Professor of Policy Sciences and Business Administration at Duke University and a Principal of ICF, Incorporated; Daniel M. Stone, Utilities Engineer in the Gas Engineering Division of the Public Staff; Eugene H. Curtis, Utilities Engineer in the Gas Engineering Division

of the Public Staff; and Edwin A. Rosenberg, an Economist with the Economics and Research Division of the Public Staff.

While the hearing was in progress in Raleigh, William W. Hannah, a customer of Public Service, testified as a public witness that he felt the minimum service charge should be discontinued for heat-only customers. No witnesses were offered by the other Intervenors.

Based upon the foregoing, the testimony and exhibits offered during the hearings, the late filed exhibits and proposed orders submitted by the parties, and the Commission's files and records in the matter, the Commission now reaches the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a duly licensed public utility corporation 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 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 ended September 30, 1977.

3. That the annual increase in rates and charges sought by Public Service under its proposed rates as filed in this proceeding is approximately $5,868,656.

4. That Public Service 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 supply of natural gas.

5. That the reasonable original cost of Public Service's plant in service used and useful in providing natural gas service in North Carolina at September 30, 1977, is $89,452,155. Such amount is composed of gas plant in service of $120,888,571 less the accumulated provision for depreciation of $31,436,416.

6. That the reasonable replacement cost less depreciation of Public Service's plant which is used and useful in providing natural gas service to customers in North Carolina is $152,030,980.

7. That the reasonable allowance for working capital for Public Service Company is $6,587,895.

8. That the fair value of Public Service's plant used and useful in providing natural 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 a 30% weighting to the net replacement cost of Public Service's utility plant. By this method, using the depreciated reasonable original cost of $89,452,155 and the depreciated replacement cost of $152,030,980, the Commission finds that the fair value of Public Service's utility plant devoted to gas service in North Carolina plus the reasonable allowance for working capital of $6,587,895 is $114,813,697. This fair value includes a reasonable fair value increment of $18,773,647.

9. That the Company's test year operating revenues, after appropriate accounting and engineering adjustments, under present rates are approximately $66,380,445 and under the Company's proposed rates would have been approximately $72,249,101.

10. That the appropriate level of the Company's operating revenue deductions (or expenses) after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $59,492,018 which includes the amount of $3,614,156 for actual investment currently consumed through actual depreciation.

11. That the capital structure which is appropriate for use in this proceeding is as follows:

Item	Percent
Long-term debt	51.81%
Preferred and preference stock	10.39%
Cost-free capital	5.97%
Common equity	31.83%
Total	100.00%

12. 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 resulting fair value capital structure is as follows:

Item	Percent
Long-term debt	43.34%
Preferred and preference stock	8.69%
Cost-free capital	4.99%
Common equity	42.98%
Total	100.00%

13. That the fair rate of return which Public Service Company of North Carolina, Inc., should have the opportunity to earn on the fair value of its investment used and useful to the ratepayers of North Carolina is 7.61%, which implies a return of 8.69% on the stockholder's equity component of the fair value of its investment.

14. That, in order to earn the level of returns which the Commission finds to be just and reasonable, Public Service Company should be allowed to increase its rates and charges so as to produce an additional $4,023,956 based on operations during the test year. The Commission finds that, given efficient management, this amount of additional gross revenue dollars will afford the Company a fair 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, both to the Company and to its customers.

15. That the rate design of the Company should not include a summer - winter differential and should incorporate a minimum bill for rate schedule 21. The Commission finds that rate groups 21, 22, 23-A, 23-B, 24, 25, and emergency services should be utilized in the setting of rates in this proceeding.

16. That the Volume Variation Adjustment Factor (VVAF) heretofore approved for use by Public Service and modified in various prior proceedings before this Commission is a just and reasonable rate-making tool or method of protecting Public Service from fluctuations in the level of curtailment from its sole pipeline supplier and of protecting the Company's customers from the uncertainties of continual rate cases, which would be required without the VVAF. The VVAF should reflect prospectively volumes tendered but not taken as curtailed volumes. The new base margin, established here, which is appropriate for future VVAF filings is $30,798,634 (the difference between test year gas sales revenue less associated gross receipts taxes and test year cost of gas). The new base period supply volume which is appropriate for use in future VVAF filings is 251,796,300 therms.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

The evidence for these Findings is contained in the verified application, the Commission's Order Setting Hearing, the testimony of the public witnesses, the testimony and exhibits of Company witnesses Zeigler and Flanagan, and the testimony and exhibits of Public Staff witnesses Kent and Curtis. These findings are essentially informational, procedural, and jurisdictional in nature and are, for the most part, uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence for this Finding is contained in the verified application, the testimony and exhibits of Company witness Flanagan and the testimony and exhibits of Public Staff witness Kent. The amounts presented were as follows:

	Company Witness Flanagan	Public Staff Witness Kent
Gas utility plant in service	$120,892,588	$120,888,571
Less: Accumulated depreciation	31,436,416	31,436,416
Cost-free capital	-	5,865,408
Original cost net investment	$ 89,456,172	$ 83,586,747

The only difference in gas utility plant in service between the two witnesses is the adjustment of $4,017 made by Public Staff witness Kent to remove civic and country club dues capitalized during the test period. The Commission concludes that the adjustment to remove civic and country club dues of $4,017 from plant in service is proper. The Commission is also of the opinion that the country club dues should not be included in the cost of service, but that civic club dues in the amount of $1,687 should be allowed as an operating expense.

Public Staff witness Kent and Company witness Flanagan disagreed as to the proper rate-making treatment of deferred income taxes. The Public Staff recommended that the accumulated deferred income taxes be treated as "cost-free" funds to the Company which were provided by the ratepayer and, as such, be deducted from the original cost net investment.

Company witness Flanagan recommended that the deferred income taxes be included in the capital structure at zero cost and that the resulting calculated capitalization ratios form the basis for the allocation of the rate base. His suggested treatment would allocate a portion of the deferred taxes to nonutility property and to construction work in progress.

Public Staff witness Kent testified that the accumulated deferred income taxes should be deducted from the rate base so that no portion of the cost-free capital would be assigned to construction work in progress (CWIP). There is no depreciation on CWIP and, therefore, it does not generate deferred taxes or cost-free capital. Witness Kent contended that Public Service customers have paid in rates which are based on a higher income tax liability than that which the Company has actually incurred. The result is that Public Service has the use of these cost-free funds provided by the ratepayers until such time as Public Service actually has to pay the income taxes which were previously deferred.

The Commission is aware that in this case the treatment of cost-free capital does not make a substantial difference in the revenue requirements which are ultimately found just and reasonable by the Commission. The Commission also is of the

opinion that treatment of these funds as cost-free capital in the capital structure will result in rates in the future lower than they otherwise would be. The Commission therefore concludes that cost-free capital shall be included in the capital structure at zero cost as in the Company's prior rate proceeding.

Having found that cost-free funds in the amount of $5,865,408 should not be deducted in determining the original cost net investment, the Commission concludes that the reasonable original cost net investment of Public Service's plant in service at September 30, 1977, is $89,452,155 ($120,888,571 - $31,436,416).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Russell 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 September 30, 1977. Witness Russell's valuation updated a previous trended cost study dated December 31, 1976. All of the replacement cost and depreciation factors had been adjusted to the period ending September 30, 1977. A reproduction cost study was made to bring the original cost dollars to the end of the test period and then adjustments were made to provide a replacement cost new valuation. The total amount for replacement cost new determined by witness Russell was $204,556,939.

From the replacement cost dollars was deducted an amount for depreciation to give a net replacement cost figure. The total amount for replacement cost new less depreciation calculated by witness Russell was $162,361,516. Company witness Russell utilized a condition percent based primarily on the present worth methodology for calculating depreciation. The Commission concludes that the present worth methodology utilized by witness Russell is not a proper means of calculating depreciation to be deducted from the replacement cost new. The Commission concludes that a more appropriate method of calculating depreciation is in utilizing the percent which the book reserve bears to the original cost dollars. This methodology has been utilized and approved in a number of past rate cases and is appropriate in this case.

As Company witness Russell testified on cross-examination (TR., Vol. IV, pp. 167-169), the Commission has previously rejected his present worth methodology in calculating depreciation or condition percent of replacement cost new in favor of the book depreciation reserve method. Using Mr. Russell's method, the appraisal condition percent is 79.4%, whereas using the book reserve method, it would be 74.0%.

No other intervenor provided testimony on replacement cost analysis. The Commission concludes that the appropriate figure to use for the net replacement cost or replacement

cost less depreciation, utilizing the book reserve methodology for calculating depreciation, is $152,030,980.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Company witness Flanagan and Public Staff witness Kent presented testimony on the allowance for working capital. Company witness Flanagan also presented rebuttal testimony relating to working capital. A summary of the amounts presented by the witnesses follows:

	Company Witness Flanagan	Public Staff Witness Kent
1/8 of operation and maintenance expense	$1,530,745	$1,523,519
Compensating bank balances	1,600,000	1,600,000
Materials and supplies	6,298,910	5,938,299
Average prepayments	391,328	391,328
Average tax accruals	(43,661)	(2,587,999)
Customer deposits		(643,253)
Total working capital requirement	$9,777,322	$6,221,894

Both witnesses used the formula method in determining working capital, and both used a 1/8 factor in the formula to calculate the cash component of working capital. Public Staff witness Kent reduced the Company's amount by $7,226 to include the effect of his adjustment to operation and maintenance expense.

Having found, in Finding of Fact No. 10, the proper level of operation and maintenance expense to be $12,231,275, the Commission concludes that the 1/8 factor should be applied to this level of operation and maintenance expense. The proper amount to be included in working capital is therefore $1,528,909 ($12,231,275 x 1/8).

Both Public Staff witness Kent and Company witness Flanagan added $6,298,910 of materials and supplies to the working capital requirement. However, Public Staff witness Kent reduced this amount by $360,611, the amount of average accounts payable applicable to the materials and supplies.

Company witness Flanagan stated in his rebuttal testimony that "the allowance for working capital is included in rate base as the method of compensating investors for the approximate cost of their capital which is needed to operate the business and which is in addition to the capital used for net utility plant in service." Public Staff witness Kent and Company witness Flanagan allude to and refer at length to the accounting basis upon which the Company keeps its books and records. While the Commission is aware of the necessity of using the accrual basis of accounting to provide a proper measure and matching of costs, it recognizes that the timing of the recording and asset or

liability neither justifies nor refutes the deduction of the accounts payable applicable to materials and supplies.

The Public Staff contends that the justification for deducting the $360,611 of accounts payable from the materials and supplies is that the payables represent capital which is not supplied by the debt or equity investors and therefore is not entitled to a return.

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 the formula method is not, and for that matter never has been, a precise means of determining the allowance for working capital. 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 requirements 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. As previously stated, the Public Staff contends that the justification for deducting $360,611 of accounts payable from the balance of materials and supplies included in the Staff's calculation of the allowance for working capital is that the payables represent capital which was not provided by the Company's debt or equity investors, and, therefore, the cost of such capital should not be included in the cost of service on which rates are fixed. Obviously, the Public Staff's contention that accounts payable represents cost-free funds to the utility is well founded. However, the Public Staff did not offer any evidence that would tend to show that these cost-free funds represented by accounts payable had not been properly considered in the calculation of the allowance for working capital by use of the traditional formula method. Accordingly, absent a lead-lag study or a properly prepared balance sheet analysis, 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.

Therefore, the Commission concludes that the proper level of materials and supplies to be included in the calculation of allowance for working capital for use in this proceeding is $6,298,910.

Company witness Flanagan deducted 1/8 of the pro forma income tax expense amounting to $43,661 from his working capital requirement, while Public Staff witness Kent

deducted the average of all tax accruals amounting to $2,587,999.

Company witness Flanagan stated on cross-examination that he did not deduct all tax accruals because they are accruals and do not represent cash (TR., Vol. IV, p. 11).

The Commission concludes that there is a continuing or ongoing level of accrued taxes which represent cost-free capital that is not supplied by the debt and equity investor. The Commission also concludes that the $2,587,999 of average tax accruals deducted by Public Staff witness Kent are a reasonable representation of the amount of that cost-free capital.

The Commission does not believe that there is sufficient evidence to indicate that any material portion of the tax accruals are applicable to nonutility operations and therefore concludes that the entire average tax accruals of $2,587,999 should be deducted in determining the proper amount of working capital.

Public Staff witness Kent deducted $643,253 of customer deposits. Company witness Flanagan did not deduct customer deposits in his working capital computation. The Commission concludes that customer deposits represent customer supplied capital and that the Company is adequately compensated for the cost of this capital by the inclusion of interest on customer deposits in operating expenses. Customer deposits are therefore a proper deduction from working capital.

Both witnesses include compensating bank balances of $1,600,000 and average prepayments of $391,328 in determining working capital. The Commission concludes that these amounts are properly included in working capital.

Based on the foregoing, the Commission concludes that the reasonable allowance for working capital in this case is $6,587,895, constituted as follows:

1/8 of operation and maintenance expense excluding cost of purchased gas	$1,528,909
Compensating bank balances	1,600,000
Materials and supplies	6,298,910
Average prepayments	391,328
Average tax accruals	(2,587,999)
Customer deposits	(643,253)
Total working capital allowance	$6,587,895

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Having determined the reasonable original cost less depreciation to be $89,452,155 and the reasonable estimate of net replacement cost to be $152,030,980, the Commission must determine the fair value of the Company's Net Plant in Service. Company witness Russell testified to a fair value

weighting based on the capital structure of the Company. The Commission is inclined to utilize this methodology since evidence has been presented in other rate cases which support it. While this methodology may not be suitable for all cases, the Commission is of the opinion that it is reasonable under all the facts in this case. The Commission feels that some reasonable weighting must be given to net replacement cost for the protection of the Company's equity holders and some reasonable weighting must be given to the original cost for the protection of its debt holders and ratepayers. The Commission is of the opinion, and thus concludes, that a weighting of 30% should be given to net replacement cost and that a weighting of 70% should be given the net original cost in calculating the fair value of Public Service's plant in service.

By weighting the original cost less depreciation of $89,452,155 by a 70% factor and the replacement cost less depreciation of $152,030,980 by a 30% factor, the Commission concludes that the fair value of Public Service's utility plant in service in North Carolina, plus the reasonable allowance for working capital of $6,587,895, is $114,813,697. This fair value determination includes a reasonable fair value increment of $18,773,647.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Testimony and exhibits concerning revenues and expenses were presented by Company witnesses Johnson and Flanagan and Public Staff witnesses Kent and Curtis. A comparison of the revenues presented by the Company and the Public Staff witnesses follows:

Item	Company	Public Staff	Difference
Gas sales	$65,882,419	$64,028,017	$1,854,402
Other operating revenues	498,026	498,026	-
Total operating revenues	$66,380,445	$64,526,043	$1,854,402

End-of-period gas sales revenues are shown in Company witness Johnson's Schedule 1, Page 2 of 2. The end-of-period gas sales revenues of $67,077,146 are those revenues generated by the present rates at September 30, 1977, including sales in Priorities 3 and 4. Public Staff witness Curtis testified to an end-of-period gas sales revenue calculation of $64,028,017. The primary difference between the end-of-period gas sales revenues calculated by the Company and those of the Public Staff comes from an exclusion of summer sales to Priorities 3 and 4 by Staff witness Curtis. Both Company and Public Staff include $498,026 of other operating revenues in their end-of-period revenues resulting in total operating revenues of $66,380,445 under the Company's presentation and $64,526,043 under the Public Staff's presentation.

The Commission is of the opinion that inclusion of summer sales to Priorities 3 and 4 is proper. Public Service has presented evidence showing that the likely market will be 24 1/2 BCF including some summer sales in priorities 3 and 4. One of the reasons advanced for this position was Mr. Dickey's statement that often during the latter part of the summer, Transco gives back or increases the CD-2 supply by rather large volumes. If these give backs from Transco occur in the late summer after storage is filled and all emergency gas has been purchased for the following winter, there will of necessity be sales in Priorities 3 and 4. The Commission hastens to add, however, that the inclusion of sales to Priorities 3 and 4 in this general rate proceeding as sought by Public Service cannot be construed to mean that emergency purchases will be allowed for any but Priorities 1 and 2 in the future.

From the evidence presented, the Commission concludes that end-of-period total operating revenues are $66,380,445.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this Finding of Fact is contained in the testimony and exhibits of Company witnesses Flanagan and Johnson and Public Staff witnesses Kent and Curtis.

The following is a comparative schedule of operating expenses presented by the Company and the Public Staff:

Item	Company	Public Staff	Difference
Purchased gas	$34,913,359	$33,555,697	$1,357,662
Operation and maintenance	12,245,958	12,195,344	50,614
Depreciation	3,614,156	3,614,156	-
Taxes - other than income	5,659,224	5,547,960	111,264
State income taxes	367,057	347,216	19,841
Federal income taxes	1,889,120	1,739,918	149,202
Investment credit normalization	857,649	857,649	-
Amortization of investment tax credits	(128,139)	(128,139)	-
Total operating expenses	$59,418,384	$57,729,801	$1,688,583

The difference of $1,357,662 in the cost of gas of $33,555,697 proposed by Public Staff witness Curtis and the $34,913,359 proposed by the Company results from a reduction in supply requirements caused by the Public Staff's deletion of the volumes required to serve Priorities 3 and 4 in the summer, which deletion was found to be improper in Evidence and Conclusions for Finding of Fact No. 9. The Commission

therefore concludes that the proper level for cost of purchased gas is $34,913,359.

The difference of $50,614 between the operation and maintenance expense of $12,245,958 used by Company witness Flanagan and Public Staff witness Kent's $12,195,344 results from several adjustments made by witness Kent. Those adjustments are listed below:

		Increase (Decrease)
1.	Pension expense	$ (17,644)
2.	Erroneous charges to advertising	(1,604)
3.	GAMA advertising	(12,708)
4.	Appliance advertising	(28,487)
5.	Life insurance premiums-officers	(5,896)
6.	Insurance on appliances	(2,880)
7.	Interest on customer deposits	38,595
8.	Rate case expense	(20,000)
		$ (50,614)

Adjustments numbered 1, 2, 5, and 6 above were not challenged by the Company on cross-examination or rebuttal. The Commission therefore concludes that these adjustments are reasonable and proper based on the testimony of witness Kent.

Public Staff witness Kent eliminated $12,708 of Company advertising through the Gas Appliance Manufacturers Association and $28,487 which represents one-half of the balance in sales advertising expense. Witness Kent testified that these amounts were applicable to appliance sales or nonutility operations.

Witness Flanagan testified (TR., Vol. IV, pp. 27-28) that the Company was relying on the Commission's letter of November 14, 1975. This letter approved utility advertising which was designed to promote conservation of energy by consumers. Mr. Flanagan stated that the Company believed the advertising challenged by witness Kent was a part of their utility obligation.

Witness Kent testified (TR., Vol. VI, p. 182) that the advertising by Public Service did not conform to the intent of the Commission's letter because it was not designed to conserve energy but merely encouraged customers to change from one form of energy to another. Witness Kent further testified (TR., Vol. VI, p. 185) that he did not believe the Commission intended to allow advertising as a reasonable operating expense which was intended to change sales of energy from one utility to another. He finally testified that he only disallowed one-half of the non-GAMA advertising expense as appliance advertising even though all of it should arguably have been removed.

The Commission still encourages the promotion of energy conservation. The Commission is also aware that certain uses of natural gas may be more efficient than other forms of energy. The Commission believes, however, that natural gas companies should direct their efforts toward the conservation of natural gas which is in such short supply and not toward encouraging consumers of other energy sources to convert to natural gas.

The Commission concludes that a portion of the advertising at issue here is simply to promote the sale of gas appliances and would have little impact on the conservation of natural gas. The Commission further concludes that the customers of Public Service should not bear the cost of advertising applicable to appliance sales. The Commission concludes that all of the advertising associated with Gas Appliance Manufacturers Association and 1/4 of the non-GAMA advertising or a total of $26,952 should be eliminated from operating expenses ($12,708 + $14,244).

Public Staff witness Kent included interest on customer deposits of $38,595 as an operating expense. This is consistent with deducting customer deposits from working capital and ensures that the Company recovers the costs associated with that capital. The Commission therefore adopts as reasonable and proper the inclusion of interest on customer deposits of $38,595 as an operating expense.

The last item of expense on which the Company and Public Staff differ is rate case expense. Company witness Flanagan included $60,000 as rate case expense based on a two-year amortization period. Public Staff witness Kent decreased this amount by 1/3 or down to $40,000 based on a three-year amortization period.

Witness Kent testified (TR., Vol. VI, pp. 200-201) that rate case expense has normally been amortized over a three-year period. He also stated in response to a cross-examination question on the number of rate cases over a four-year period that the last Public Service general rate case was brought about primarily because of the addition of the Company's new LNG plant in Cary to the rate base.

The Commission concludes that, at present, two years is a reasonable period over which to amortize general rate case expense and therefore rejects the reduction of $20,000 in rate case expense proposed by witness Kent.

The difference in taxes other than income of $111,264, State income taxes of $19,841 and Federal income taxes of $149,202 are a direct result of the other adjustments to revenues and expenses made by the witnesses. Based on the adjustments accepted by the Commission, the Commission concludes that the proper level of taxes - other than income is $5,659,224 and the proper level of State and Federal income taxes is $3,074,004.

Based on the foregoing the Commission concludes that the level of operating revenue deductions which should be included in the cost of service in this proceeding is $59,492,018. This amount includes $3,614,156 for actual investment currently consumed through actual depreciation.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11-13

The evidence which supports the above Findings of Fact are found in the testimonies of Mr. Jackson and Mr. Flanagan for the Company and Mr. Rosenberg, Mr. Kent, and Mr. Daniel for the Public Staff. These witnesses presented the results of studies which they made to determine the appropriate capital structure for use in this proceeding and the current cost of capital to the Company. Additional evidence is found in the Company's data filed in response to the minimum filing requirements.

Mr. Jackson, Senior Vice President and Director of Stone and Webster Management Consultants, Inc., offered his determination of the current fair rate of return for the Company and his opinion that the JDC should be allowed the same level of return as that allowed the common equity component of investor supplied capital. His conclusion was that the fair rate of return or cost of capital to the Company is 9.70% when calculated on a net original cost basis. Included in this return figure is a cost or return allowance of 16% or 16.5% on the common equity component of capital depending on whether or not the convertible preference stock issues are treated as common equity. Mr. Flanagan testified concerning the capital structure and appropriate capitalization ratios for use in this proceeding.

Mr. Edwin A. Rosenberg, an Economist in the Economics and Research Division of the Public Staff, testified that, if the Company were able to earn a return of 9.18% on the net original cost of its investment, the economic test of a just and reasonable return would be met. Included in his return recommendation was an allowance of 13.25% for the common equity component. Public Staff witness Donald E. Daniel, Assistant Director of Accounting for the Public Staff, presented testimony regarding two items which enter into the determination of the appropriate capital structure. These items were (1) JDC and (2) the Company's investment in approved exploration programs.

These witnesses' testimonies differed in a number of respects. They used different capital structures, different cost rates for the common equity component, and different cost rates for the preferred and preference stock component. The only matter on which they agreed was the proper embedded cost rate for the long-term debt component of capital. Mr. Jackson used a cost rate of 7.53% and Mr. Rosenberg adopted that rate.

The differences in capital structure stem from several adjustments which the Public Staff witnesses made to the book figures as of the end of the test year. These adjustments were required to produce what the Public Staff felt to be the proper treatment of cost-free capital, JDC, investor supplied capital committed to approved exploration programs, and the Company's two issues of convertible preference stock. The Public Staff's treatment of the convertible preference stock also resulted in the difference between the embedded cost rate which Mr. Jackson used for this component (7.06%) and the cost rate used by Mr. Rosenberg (7.18%).

The capital amounts and ratios presented by the Company and the Public Staff were as follows:

Item	Company		Public Staff	
	Amount	Ratio	Amount	Ratio
Long-term debt	$50,910,000	51.82	$50,910,000	57.68
Preferred and preference stock	10,207,000	10.39	11,124,362	12.60
Deferred income taxes	5,865,408	5.97	-	-
Stockholder's equity per books	26,649,894	-	26,708,076	-
Converted preference stock	2,220,700	-	1,303,338	-
Stockholder's investment in exploration program	-	-	(1,777,398)	-
Job development investment tax credit	2,398,781	-	-	-
Total equity	31,269,375	31.82	26,234,016	29.72
Total capitalization	$98,251,783	100.00	$88,268,378	100.00

Mr. Jackson (and also Mr. Rodgers testifying for the Company) treated the entire amount of convertible preference stock as if it were common equity. Mr. Rosenberg treated all of the outstanding amount of the 4.40% issue and one-half of the outstanding amount of the 8% issue as common equity. Based on the testimony of these two witnesses (and that of Mr. Rodgers) as well as the Company's data response, it appears that conversion of these issues is taking place and that the present preference shareholder can increase his dividend by converting his shares to common stock. The Company is encouraged to increase its common equity ratio and, in this case, the Commission concludes that all of the preference stock should be included as common equity. The choice of the embedded cost rate for the preferred and preference stock capital is also based on the adoption of Mr. Jackson's treatment of the convertible preference issues. The Commission will therefore adopt Mr.

Jackson's figure of 7.06% as the proper embedded cost rate for this class of capital.

Both the Company and the Public Staff agreed on the amount of long-term debt. There being no evidence to the contrary, the Commission concludes that the amount of $50,910,000 presented by both the Company and the Public Staff should be used in the computation of the long-term debt ratio.

The remaining differences in total capitalization and, therefore, in the capitalization ratios concern the treatment of accumulated deferred income taxes, stockholder investment in exploration programs, and the unamortized balance of the JDC. The Commission has previously found in Evidence and Conclusions for Finding of Fact No. 5 that the accumulated deferred income taxes should be included as a zero-weight component of the capital structure. We will not repeat those Findings and Conclusions here.

The three basic issues to be resolved in computing the proper capitalization ratios are as follows:

(1) Should the amount of the JDC be included in common equity in computing the common equity capitalization ratio and, therefore, allow the investment supported by this source of funds to earn the full equity rate of return as opposed to the overall rate of return?

(2) Should the book common equity be reduced by the total amount of Public Service's 25% matching investment in exploration programs?

(3) Should the total amount of convertible preference stock be treated as common equity? The Commission previously adopted witness Jackson's treatment of this matter and will not repeat the conclusions.

The Company and the Staff disagree with regard to the rate-making treatment to be accorded the JDC. The Company contends that the legislative intent was for the Company to earn the full equity return on the unamortized balance of the JDC, while the Staff maintains that the Revenue Act of 1971 requires only that the funds arising from the JDC should receive no less than the overall cost of capital. The Company's position is based on the House Ways and Means Committee Report No. 92-533 and the Senate Finance Committee Report No. 92-437. The following excerpts from the House and Senate Committee Reports tend to support the Company's contention:

House Report No. 92-533:

"In determining whether or to what extent a credit has been used to reduce the rate base, reference is to be made to any accounting treatment that can affect the company's permitted profit on investment by treating the credit in any way other than as though it had been contributed by

the company's common shareholders. For example, any lesser 'cost of capital' assigned to the credit would be treated as, in effect, a rate base adjustment."

Senate Report No. 92-437:

"In determining whether or to what extent a credit has been used to reduce the rate base, reference is to be made to any accounting treatment that can affect the company's permitted profit on investment by treating the credit in any way other than as though it had been contributed by the company's common shareholder. For example, if the 'cost of capital' rate assigned to the credit is less than that assigned to common shareholders' investment, that would be treated as, in effect, a rate base adjustment."

The following excerpt from the Internal Revenue Service's proposed Reg. Section No. 1 of 46-5 tends to support the Staff's position:

"In determining whether or to what extent a credit allowed under section 38 (determined without regard to section 46(e)) reduces the rate base, reference shall be made to any accounting treatment of such credit that can affect the taxpayer's permitted profit on investment. Thus, for example, assigning a 'cost of capital' rate to the amount of such credit which is less than the permissible overall rate of return (determined without regard to the credit) would be treated as, in effect, a rate base adjustment. What is the overall rate of return depends upon the practice of the regulatory body. Thus, for example, an overall rate of return may be a rate determined on the basis of an average or weighted average of allowable rates of return on investments by common stockholders, preferred stockholders, and creditors."

For purposes of setting rates in this case, the Commission concludes that the JDC should be treated as common equity.

The Commission will now discuss the appropriate level of the shareholders' investment in the Company's exploration program and whether the book common equity should be reduced by the amount of this investment for the purpose of calculating the capitalization ratios.

In his testimony, Public Staff witness Daniel stated (TR., Vol. 6, p. 213) that the Commission's Revised Order approving the exploration programs in Docket No. G-100, Sub 22 required 25% of the cost of the programs to be supported by stockholder capital. He further stated that the only way to insure that the stockholders contribute their full 25% share of the cost of the exploration program was to provide specific treatment of the stockholder portion of the contribution in a manner such as that accorded to it by Public Staff witness Rosenberg (i.e., exclude stockholder investment in exploration program from common equity in calculating the capitalization ratios). He further stated

that this treatment was necessary in order to be consistent with the Commission's orders regarding the exploration program.

On cross-examination, witness Daniel agreed (TR., Vol. 6, pp. 224-225) that the exploration program may in fact be supported by the total capital structure; however, witness Daniel reiterated that anything less than a specific deduction of the stockholder investment would result in the Company's contribution to exploration being made by the overall capital structure and, therefore, by someone other than the stockholders of the Company.

The Commission has very carefully examined and considered the evidence presented on this issue and concludes that the Public Staff's contention that the stockholder investment in the Company's exploration program should be considered 100% equity financed is unfounded and inconsistent with the Commission's Order in Docket No. G-100, Sub 22, and G-5, Sub 109, and therefore is improper.

Based upon the foregoing, the Commission concludes that the net original cost capital structure of the Company at September 30, 1977, which we deem proper for rate-making purposes in this proceeding is as follows:

Long-term debt	51.81%
Preferred and preference stock	10.39%
Cost-free capital	5.97%
Common equity	31.83%
Total	100.00%

The remaining area of disagreement between these witnesses was the determination of the proper cost rate to be assigned to the common equity component of capital. Mr. Jackson testified concerning the results of a "comparable earnings" analysis which he performed, based on the achieved equity returns of 41 comparison companies. His conclusion was that these companies (all engaged in the natural gas distribution business) had not been able to earn reasonable rates of return over the years 1971 - 1976. He also reported the achieved returns of a group of 22 "highly-rated" industrial firms over the 1967 to 1976 period. These firms were able to achieve average equity returns of 15.4% over that period. Mr. Jackson reported that the firms in the Standard and Poor's 400 group had earned an average return on book equity of 13.6% over the 1971 to 1976 period. Mr. Jackson also stated that the realized returns which investors had received from investments in Public Service Company, the comparison group of utilities, and the 22 "highly-rated" industrial firms in recent years were too low in light of the returns available to investors in fixed-charge securities.

Mr. Jackson performed a discounted cash flow analysis on his group of 41 comparison utilities and found that if these firms were to have the opportunity to successfully market

their equity securities, they would have to earn an equity return of 16%. This was based on his belief that the allowed return should be sufficient to allow for a 25% cushion between market price and book value to allow for selling expenses, market pressure, and market declines. He felt that the total effect of these forces could be as much as 20% of the pre-sale market price which implies that the market price should be 25% above book value in order to sustain a 20% decline in price.

Finally, Mr. Jackson presented the results of a regression which he calculated using data for the average ratio of market price to book value and average embedded interest cost rates for his group of 41 comparison utilities for the 1971 to 1976 period. Based on this analysis, he concluded that in order for Public Service's common stock to sell at a market to book ratio of 1.0 to 1.2, the equity return would have to be in the range of 13.2% to 14.5%. Based on the results of the above analyses and on his judgment about the impact of the Company's relatively thin equity ratio of approximately 30% as compared with the other firms in his comparison groups, Mr. Jackson stated that it was his opinion that the current cost of common equity is fairly stated at 16% if the convertible preference stock is included in common equity and 16 1/2% if it is not.

Mr. Rosenberg's recommendation of 13.25% as the proper cost rate for common equity was based on his application of the discounted cash flow technique to a group of 19 natural gas distribution firms including Public Service Company. His study consisted of analyzing the growth in earnings and dividends per share for each of the firms for various periods within the period 1966 to 1977 and calculating a growth rate for each firm. This growth rate, when combined with the dividend yield for each firm as of March 31, 1978, led him to conclude that the minimum cost of equity for the group of firms was 12.2%. Because Public Service Company had a lower equity ratio than the group as a whole, he adjusted the minimum cost rate for Public Service Company upwards by .4% to .5% to reflect this additional financial risk. He further adjusted the minimum cost of equity for Public Service Company upward to reflect what he felt were reasonable selling expenses (5% to 10%) associated with the sale of additional equity and arrived at a range of 12.9% to 13.4% within which he recommended 13.25% as a reasonable estimate of the cost of equity to Public Service Company. Finally, he checked the reasonableness of this recommendation against the achieved equity returns of a number of groups of industrial and nonindustrial firms and concluded that, based on his analysis of the achieved equity returns for wide groups of firms, his recommendation of 13.25% for Public Service was not unreasonable.

As noted in the cross-examination of both Mr. Rosenberg and Mr. Jackson, it is difficult to select a representative number of companies which is truly comparable to Public Service Company. Included in Mr. Jackson's group of 41

companies and Mr. Rosenberg's group of 18 firms are individual companies which, judged on an individual basis, might not be closely comparable to Public Service Company. Yet, each of the firms on both lists share some characteristics with Public Service Company, and it is not unreasonable to hold that some useful results may be achieved by the study of these groups. Within the two groups of comparison companies presented by the two witnesses were numerous duplications. Indeed, it may be said that the list of firms used by Mr. Rosenberg was basically a subset of the firms used by Mr. Jackson. It appears that Mr. Rosenberg was somewhat more selective than was Mr. Jackson in the choice of comparison companies, although a number of firms on either list might be challenged on one or more grounds.

When the fair value increment of $18,773,647 is added to the common equity component of capital previously determined, the resulting fair value capital structure is as follows:

Long-term debt	43.34%
Preferred and preference stock	8.69%
Cost-free capital	4.99%
Common equity	42.98%
Total	100.00%

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in Utilities Commission, et al. v. Duke Power Company, 285 N.C. 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 the Company's capital structure. Considering the nature of Public Service's current investment needs and its present status with regard to equity financing, as well as other testimony relating to rate of return, the Commission concludes that a return of 7.61% on the fair value capital structure calculated above will allow the Company to meet its fixed obligations and will produce a return of 8.69% on the fair value common equity or approximately 14.02% on the net original cost or book value of the equity component. The Commission concludes that this is a fair and reasonable rate of return. It will enable the Company to meet the reasonable requirements of its customers and compete in the capital market on terms which are reasonable to both ratepayer and investor and, therefore, the rates allowed the Company should be set at a level which reflects this fair rate of return and provides the Company a reasonable opportunity, given efficient management, to earn that level of return.

The Commission cannot guarantee that the Company will achieve the level of return herein found to be just and reasonable. Indeed, the Commission would not guarantee it if it could. Such a guarantee would remove necessary incentives for the Company to undertake to achieve the utmost in operational and managerial efficiency.

The Commission believes that it has given the Company a reasonable opportunity to earn a reasonable return for its stockholders while providing adequate and economical service to the ratepayers. The Commission can do no more.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The following schedules summarize the gross revenues and the rates of return which the Company should have a reasonable opportunity to achieve, based on 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
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
DOCKET NO. G-5, SUB 136
STATEMENT OF FAIR VALUE RATE OF RETURN
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Gas sales	$ 65,882,419	$4,023,956	$ 69,906,375
Miscellaneous	498,026	-	498,026
Total revenues	66,380,445	4,023,956	70,404,401
Operating Revenue Deductions			
Purchased gas	34,913,359	-	34,913,359
Operating and maintenance expense	12,231,275	-	12,231,275
Depreciation	3,614,156	-	3,614,156
Taxes other than income	5,659,224	241,437	5,900,661
Income taxes - State and Federal	3,074,004	$1,933,624	5,007,628
Total operating revenue deductions	59,492,018	2,175,061	61,667,079
Net operating income for return	$ 6,888,427	$1,848,895	$ 8,737,322
Investment in Gas Plant			
Gas plant in service	$120,888,571	-	$120,888,571
Less: Accumulated depreciation	31,436,416	-	31,436,416
Net gas plant	89,452,155	-	89,452,155
Allowance for Working Capital			
Cash	1,528,909	-	1,528,909
Compensating bank balances	1,600,000	-	1,600,000
Materials and supplies	6,298,910	-	6,298,910
Average prepayments	391,328	-	391,328
Less: Average tax accruals	(2,587,999)	-	(2,587,999)
Customer deposits	(643,253)	-	(643,253)
Total allowance for working capital	6,587,895	-	6,587,895
Original cost net investment	$ 96,040,050	-	$ 96,040,050
Fair value rate base	$114,813,697	-	$114,813,697
Rate of return on fair value rate base	6.00%	-	7.61%

SCHEDULE II
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
STATEMENT OF RETURN ON FAIR VALUE COMMON EQUITY
DOCKET NO. G-5, SUB 136
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

Capitalization Ratio	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
	Present Rates - Fair Value Rate Base			
Long-term debt	$ 49,758,350	43.34%	7.53	$3,746,804
Preferred and preference stock	9,978,561	8.69	7.06	704,486
Cost-free capital	5,733,591	4.99	-	-
Common equity	49,343,195*	42.98	4.94	2,437,137
Total	$114,813,697	100.00%	-	$6,888,427
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 49,758,350	43.34	7.53	$3,746,804
Preferred and preference stock	9,978,561	8.69	7.06	704,486
Cost-free capital	5,733,591	4.99	-	-
Common equity	49,343,195*	42.98	8.69	4,286,032
Total	$114,813,697	100.00%	-	$8,737,322

*Book common equity	$30,569,548
Fair value increment	18,773,647
	$49,343,195

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 Dickey and Johnson and those of Public Staff witnesses Blaydon, Magat, Curtis, and Stone.

The Company and the Public Staff have both arranged the rate schedules under which service is offered in accordance with the priority system established by the Commission in Docket No. G-100, Sub 24. In so doing the Company has reduced the number of rate schedules under which service is to be offered from 12 to 6; whereas, the Public Staff has

added one additional rate schedule to distinguish between those industrial customers with propane as an alternate fuel versus those with oil as an alternate. The Commission feels that the grouping set forth by the Public Staff is appropriate in reflecting the availability and reliability of gas service to Public Service's customers in North Carolina.

Company witness Johnson provided a rate design which employed declining blocks for Rate Schedules 21 and 22. The remainder of the rate schedules were flat year-round rates. Public Staff witness Curtis proposed a rate design using flat rates for all schedules, with a summer - winter differential which provides a slightly reduced flat rate to those customers who buy gas during the summer months.

The Commission concludes that rates incorporating a summer - winter differential are undesirable in that such rates would be less effective than average flat rates in encouraging consumer conservation and therefore are inappropriate for use in this proceeding.

The Commission (in the emergency surcharge Docket No. G-100, Sub 33) has authorized Public Service to provide service to customers in Priorities 1 and 2 on design winter conditions. Public Service, through its witnesses Johnson and Dickey, established a design of rates based on making summer sales to Priorities 3 and 4. Public Staff witness Curtis excluded sales to Priorities 3 and 4 in the summer for his design of rates. The total volume of gas in these two priorities for the summer period is 1,281,622 MCF. The Company presented testimony that often during the latter part of the summer Transco gives back or increases the CD-2 supply by rather large volumes. If these give backs from Transco occur in the late summer after storage is filled and all emergency gas has been purchased for the following winter, there will of necessity be sales in Priorities 3 and 4. The Commission therefore finds that the design of rates should be based on sales to Priorities 1 and 2 and summer sales to Priorities 3 and 4. The Commission is still of the opinion, however, that emergency purchases shall only be made to serve Priorities 1 and 2, both now and in the foreseeable future.

Both the Company and the Public Staff recommended that the basic billing unit for Public Service be changed from the cubic foot to the therm. This change was necessitated by a change in billing units to the Company from its pipeline supplier. None of the intervenors opposed this change and the Commission concludes that it should be allowed.

The Company used 251,796,300 therms in designing rates whereas the Public Staff used 238,624,557 therms, the difference being in the exclusion of summer sales to Priorities 3 and 4. Revenues generated by Company witness Johnson in his testimony show total revenues of $71,751,075. Public Staff witness Curtis generated proposed revenues of

$67,190,584. The Commission, in Finding of Fact No. 9, accepted Mr. Johnson's revenue calculations and such Findings and Conclusions will not be repeated here.

Company witness Johnson proposed a facilities charge for Rate 21, whereas the Public Staff proposed a minimum bill concept. The Commission feels that, due to residential customer acceptance of the minimum bill concept where the customer receives some gas before he is billed, the minimum bill should be employed in the design of these rates. The Public Staff's recommendation including three therms is considered appropriate here.

The Commission has before it two cost-of-service studies which reflect various cost allocation methodologies. Company witness Johnson prepared a cost-of-service study showing an overall rate of return of 9.73%. The rate of return by class of customer ranged from 6.22% to 29.7%. Public Staff witness Stone presented a class cost-of-service study showing an overall return of 10.06%, ranging by class of customer from a low of 5.53% return to a high of 24.52% return. The main difference in these two cost-of-service studies is in the allocation of the demand and commodity components and in averaging the two. Company witness Johnson used a 50-50 weighting of the demand and commodity components. Public Staff witness Stone used a 25% weighting factor on the demand component and a 75% weighting of the commodity component. The Commission concludes that the 25-75% weighting is more appropriate in light of the present gas supply picture. The Commission concludes that cost-of-service studies are appropriate for use as a guide in setting rates but are not the ultimate goal of ratemaking.

Public Staff witnesses Nagat and Blaydon testified that allocated cost-of-service studies were not an appropriate method for designing Public Service's rates in this case. They contended that rates should be set which would force each customer to face the marginal cost of providing one additional decatherm of service to such customer.

The Commission has reviewed the marginal cost testimony of witnesses Nagat and Blaydon testifying on behalf of the Public Staff. These two witnesses proposed the following criteria for use in rate design:

(1) Rates should induce an economically efficient allocation of resources,

(2) Rates should produce the required revenue,

(3) Rates should be nondiscriminatory,

(4) Changes in rates should take place gradually, and

(5) Rates should provide reasonably stable revenue patterns.

Witnesses Hagat and Blaydon argued that criteria (2), (4), and (5) implied nothing with regard to the design of rates and that criteria (1) and (3) implied that rates should be set equal to marginal cost.

The Company and the Public Staff further presented to the Commission, through rate design witnesses Johnson and Curtis, an historical comparison between the rates currently in effect and the revenues generated by the proposed rates of the Company and the Public Staff. Company witness Johnson's exhibits showed an overall 8.91% increase, ranging from no increase to an increase of 12.47% by proposed rate schedule. Public Staff witness Curtis, using the present rate schedules, showed an overall increase of 7.5% with a variation among rate schedules from no increase to a 15.2% increase.

The Public Staff further presented testimony on the cost of alternative fuels for the various rate classes and priorities, which study indicates that the proposed rate levels for each rate class as filed by Public Service and as proposed by the Public Staff are all less than the competitive cost of alternative fuels.

After having considered the cost of service studies, the marginal cost data, the historical rate comparisons, the competitive cost relationship between natural gas and other alternate energy sources, the need for a more simplified rate structure, and the desirability of encouraging consumer conservation through rate design, the Commission concludes that the additional $4,023,956 in gross revenues approved herein should be derived pursuant to the following guidelines:

1. The Commission concludes that the minimum bill is the most desirable method of recovering a portion of customer costs and that such a charge for residential customers should include the first three therms of natural gas consumed.

2. The Commission concludes that rates incorporating a summer - winter differential are undesirable in that such rates would be less effective than average flat rates in encouraging consumer conservation and therefore are inappropriate for use in this proceeding.

3. The Commission concludes that the rates should be flat, thereby eliminating declining blocks and encouraging conservation.

4. The Commission concludes that the number of rate schedules should be reduced from 12 to seven as presented by the Public Staff.

5. The Commission concludes that the basic billing unit should be changed from the cubic foot to the therm.

6. The Commission concludes that customers who are presently master metered should not each pay the full customer charge.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

VVAF or curtailment tracking rate (CTR) was initiated for the purpose of stabilizing the base period margin (gas sales revenue - cost of gas - gross receipts tax) which had been subject to variation due to the curtailment of the Company's flowing gas supply from Transco. Although the VVAF does not guarantee any specific rate of return in time intervals between general rate case proceedings (and was never intended to), it has functioned well in protecting the Company's base period margin where fluctuation of flowing gas supply has characterized annual operations. This uncertainty concerning gas supply volumes and its attendant consequences continue to affect Public Service Company. Transco's supplies have not stabilized and Transco's actual deliveries continue to vary from its projections. The Commission concludes that the instability and variability of future pipeline gas supplies merit the continuation of the VVAF.

One of the Company's objections to the VVAF is that volumes tendered but not taken are included as volumes sold under the present formula. In order to aleviate the Company's concern and make the formula equitable in this regard, the Commission concludes that prospectively these volumes tendered but not taken will be treated as curtailed volumes.

The Commission further concludes that the new base period supply volume of 251,796,300 therms and the new base period margin of $30,798,634 which are established in this proceeding, should be calculated as follows:

Base period supply - therms	262,177,330
Less: Company use and unaccounted for	10,381,030
Base period volume - therms	251,796,300
Gas revenues	$69,906,375
Less: Cost of gas	34,913,359
Gross receipts tax	4,194,382
	39,107,741
Base period margin	$30,798,634

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Public Service Company of North Carolina, Inc., be, and the same is hereby, authorized to adjust and increase its rates and charges so as to produce additional annual revenues of $4,023,956.

2. That the proposed rates filed by Public Service which were designed to produce additional annual revenues of $5,868,656 are in excess of those which are just and reasonable and the same are hereby disapproved and denied.

3. That the Company and the Public Staff shall file within 5 days of the date of this Order rates which will produce $69,906,375 in annual gross gas sales revenues according to the following guidelines:

a. Rate schedules 21, 22, 23A, 23B, 24, 25, and emergency services as proposed by the Public Staff shall be utilized.

b. The unit of measurement shall be the therm.

c. Rate Schedule 21 shall incorporate a minimum bill of $5.25 with 3 therms of gas included. The minimum bill for heat only customers should be $7.00 per month for nine months.

d. The rates shall be flat rates with no summer - winter differential.

e. Those customers who are presently master metered shall not each pay the monthly minimum bill.

f. Summer sales to Priorities 3 and 4 shall be included in sales in accordance with the conclusions set forth above.

Exceptions and comments to said proposed rates shall be filed within five days thereafter.

4. That the rates and charges necessary to produce the additional annual gross revenues authorized herein shall become effective on all gas sold from and after the issuance of a further Order approving the tariffs filed pursuant to Paragraph 3 above.

5. That, prospectively, volumes tendered but not taken will be treated as curtailed volumes in the calculations of the VVAP.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

COMMISSIONER TATE, CONCURRING AND DISSENTING: I concur in the major issues decided in this case, but I do dissent to that portion of the Order which deals with the minimum bill provision. It is my belief that a facilities charge is cost

justified, in that it represents that fair charge to each customer based on his being hooked up to the service, having his meter read and billing. Additionally, I believe that it is an honest attempt to tell each customer what charges he is responsible for by being on the system. The Public Staff's recommendation for a minimum bill which also provides three therms of gas will, in my opinion, lead to an unnecessarily complicated calculation of all the various surcharges placed on each therm of gas as well as the calculation of the CTA. The only reason given by the Public Staff for a minimum charge as opposed to a facilities charge is customer acceptance, and I believe that most North Carolina customers would accept the facilities charge as fair if there were efforts to explain the reasons for it.

Sarah Lindsay Tate, Commissioner

PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.

ROGER, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: (1) Rate of Return on Book Equity: With the exception of the revenue effect of certain accounting adjustments, I agree with the resultant revenue dollars anticipated to be produced by rates based on the Order's allowed rate of return on fair value common equity of 8.69% and return on book common equity of 14%. However, I do not agree with the stated reasoning and conclusions found in the Order regarding the granting of these rates of return.

It is my opinion that a rate of return of 13.25% - 13.50% on book equity (approximately that recommended by the Public Staff) would be sufficient and produce a fair and reasonable return to the Company. But, I recognize also that the Volumetric Variation Adjustment Factor (VVAF) operates to limit the Company's ability to offset inflationary costs with increased sales of gas. While the VVAF works to "protect" the Company from declining volumes of sales, it also prevents the Company from realizing any additional net income from increased sales of gas. If one assumes that inflation will continue at or near current levels, then VVAF will effectively eliminate the Company's ability to earn a given rate of return based on a past test period. For that reason, I would vote to allow an attrition allowance of .50% - .75% on the book equity return. (It should be noted that neither the electric nor the telephone utilities in this State have an automatic "volume" adjustment clause, thereby permitting the possibility of improvement in system load factors and an opportunity to offset inflationary costs.)

Recognizing the above-described problem with the VVAF, one may question whether it should be eliminated? I would say no, because during this period of gas supply uncertainty, elimination of the VVAF could possibly lead to windfall profits for the Company if natural gas legislation, which could significantly increase Transco's supplies, is passed by Congress.

While the possibility of windfall profits may be small due to the fact that Public Service is buying a significant portion of emergency gas for which other gas would be substituted, I believe it would be prudent to maintain the VVAF for the present and near future time period. Concurrent with retaining the VVAF, I believe the Commission must recognize that the VVAF will operate to almost completely preclude the Company from earning any predetermined rate of return based on a past test period if inflation continues to outstrip productivity improvements as it has during the recent past. For those reasons, I would include a modest attrition allowance as discussed above.

(2) Job Development Investment Tax Credit: I disagree with the Order's determination that the cost of book equity should be the rate of return required to be earned on the funds generated by this tax credit. I believe such treatment unduly benefits the stockholder at the expense of the consumer. While I recognize that the tax laws are unclear on this matter and that our adoption of a procedure contrary to the law could conceivably jeopardize the Company's previous investment tax credits, the great majority of public service commissions in the country (35) are assigning the lower overall capital cost as the rate of return which must be earned by these funds. Public Staff accountants testified that it was very unlikely that any IRS ruling would be applicable retrospectively.

However, to guard against that likelihood (even though thought to be small) of an adverse ruling applicable retrospectively, I would advocate that the return on book equity figure be used but that a memorandum account be established to permit the difference in assigning the overall cost of capital and the cost of book equity to be collected and later refunded to the customers pending a favorable ruling by IRS.

Date July 25, 1978 Robert K. Koger, Chairman

DOCKET NO. G-5, SUB 136

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	) FINAL ORDER) SETTING RATES)

HEARD IN: The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 11, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Leigh H. Hammond, Sarah Lindsay Tate, Ben E. Roney, Robert Fischbach, Edward B. Hipp, and John W. Winters

APPEARANCES:

For the Applicant:

F. Kent Burns and James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P.O. Box 1406, Raleigh, North Carolina 27602

For the Intervenors:

Thomas R. Eller, Jr., Attorney at Law, NCNB Regional Operations Center, Suite 105, 1305 Navaho Drive, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

W. I. Thornton, Jr., City Attorney - City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701
For: The City of Durham

Dennis P. Myers, Associate Attorney General, Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

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

BY THE COMMISSION: On December 15, 1977, Public Service Company of North Carolina, Inc. (Public Service, the Applicant, or the Company), filed an Application with this Commission for authority to adjust and increase its rates and charges for retail natural gas service in North Carolina. The Application proposed to make the requested rate adjustments effective for service rendered on and after January 16, 1978. By Order of January 12, 1978, the Commission declared the matter to be a general rate case, set the Application for Investigation and Hearing, suspended the proposed rates, and required the Company to give Notice of its Application to its customers and to the public.

The following parties intervened in this proceeding and participated in the hearings: Public Staff - North Carolina Utilities Commission, the Attorney General, City of Durham, and the North Carolina Textile Manufacturers Association (NCTMA). The Company's Application was heard in Asheville, Gastonia, and Raleigh before Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney and Sarah Lindsay Tate. Evidence was received from all Parties of Record and public witnesses. The Commission hereby adopts the recital of the witnesses and the scope of the testimony at said

public hearings as set out in the Recommended Order issued July 26, 1978, by reference, as if set out herein.

On July 26, 1978, the Commission issued its Recommended Order Setting Rates in this docket authorizing Public Service to adjust and increase its rates and charges so as to produce additional annual revenues of $4,023,956. The Recommended Order also directed Public Service and the Public Staff to file proposed rates which would produce $69,906,375 in annual gross gas sales revenues, such rates to be designed according to guidelines set forth in the Order.

Public Service filed its proposed rates on July 31, 1978, pursuant to the Recommended Order. The Public Staff filed its proposed rates on August 2, 1978. By Order issued August 4, 1978, the Commission allowed the Company to place proposed rates filed on July 31, 1978, into effect on August 7, 1978. These rates were lower than those originally proposed in the Company's Application. (G.S. 62-135 allows the Company to place its rates into effect under bond or undertaking six months after the rates would have gone into effect if the Commission has not issued its final Order.)

The following parties filed exceptions to the Recommended Order of July 26, 1978, and requested oral argument on the exceptions before the Full Commission: the Public Staff - North Carolina Utilities Commission; the City of Durham and the Attorney General of North Carolina, adopting the exceptions filed by the Public Staff; the North Carolina Textile Manufacturers Association, Inc.; and Public Service Company of North Carolina, Inc. On August 16, 1978, the Commission issued an Order setting September 11, 1978, as the time for hearing oral argument on the exceptions to the Recommended Order; the proposed rates filed by Public Service on July 31, 1978; and the proposed rates filed by the Public Staff on August 1, 1978.

Thereafter, on August 31, 1978, the Public Staff filed a Motion requesting the Commission to issue a Show Cause Order requiring the Company to appear before the Commission and show cause why the Company failed to comply with the Recommended Order and its own tariff schedules. The Motion specifically alleged that the Company improperly billed its residential customers (Rate Schedule No. 21) and its commercial customers (Rate Schedule No. 22) with respect to monthly minimum bills. On September 1, 1978, Public Service filed a Response to the Motion for a Show Cause Order. On September 6, 1978, the Commission ordered that the Motion for Show Cause Order and the Response of the Company be consolidated for hearing with the oral argument previously set for hearing on September 11, 1978.

Oral argument was held before the Full Commission on September 11, 1978, and all parties were present and represented by counsel.

Upon full consideration of the exceptions filed by the parties, the Recommended Order of July 26, 1978, the Motions, comments and responses filed by the parties, the oral argument of counsel, and the entire record in this docket including the transcript of the hearings, the Commission makes the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina, Inc., is a duly licensed public utility corporation 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 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 ended September 30, 1977.

3. That the annual increase in rates and charges sought by Public Service under its proposed rates as filed in this proceeding is approximately $5,868,656.

4. That Public Service 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 supply of natural gas.

5. That the reasonable original cost of Public Service's plant in service used and useful in providing natural gas service in North Carolina at September 30, 1977, is $120,888,571. The reasonable accumulated provision for depreciation of $31,436,416 and cost-free capital in the amount of $5,865,408 should be deducted in determining the reasonable original cost net investment of $83,586,747.

6. That the reasonable replacement cost less depreciation of Public Service's plant which is used and useful in providing natural gas service to customers in North Carolina is $152,030,980.

7. That the reasonable allowance for working capital for Public Service is $6,585,395.

8. That the fair value of Public Service's plant used and useful in providing natural 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 a 30% weighting to the net replacement cost of Public Service's utility plant. By this method, using the depreciated reasonable original cost of $89,452,155 and the depreciated replacement cost of $152,030,980 and deducting cost-free capital in the amount

of $5,865,408, the Commission finds that the fair value of Public Service's utility plant devoted to gas service in North Carolina plus the reasonable allowance for working capital of $6,585,395 is $108,945,790. This fair value includes a reasonable fair value increment of $18,773,648.

9. That the Company's test year operating revenues, after appropriate accounting and engineering adjustments, under present rates are approximately $66,380,445 and under the Company's proposed rates would have been approximately $72,249,101.

10. That the appropriate level of the Company's operating revenue deductions (or expenses) after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $59,413,950 which includes the amount of $3,614,156 for actual investment currently consumed through actual depreciation.

11. That the capital structure which is appropriate for use in this proceeding is as follows:

Item	Percent
Long-term debt	56.58%
Preferred and preference stock	12.36%
Common equity	31.06%
Total	100.00%

12. 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 resulting fair value capital structure is as follows:

Item	Percent
Long-term debt	46.83%
Preferred and preference stock	10.23%
Common equity	42.94%
Total	100.00%

13. That the fair rate of return which Public Service should have the opportunity to earn on the fair value of its investment used and useful to the ratepayers of North Carolina is 7.84%, which implies a return of 8.34% on the stockholder's equity component of the fair value of its investment.

14. That, in order to earn the level of returns which the Commission finds to be just and reasonable, Public Service should be allowed to increase its rates and charges so as to produce an additional $3,427,532 based on operations during the test year. The Commission finds that, given efficient management, this amount of additional gross revenue dollars will afford the Company a fair 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, both to the Company and to its customers.

15. That the rate design of the Company should not include a summer - winter differential and should incorporate a facilities charge for Rate Schedule No. 21. The Commission finds that rate groups 21, 22, 23, 34, 24, 25, 26, and emergency services should be utilized in the setting of rates in this proceeding.

16. That the Volume Variation Adjustment Factor (VVAF) heretofore approved for use by Public Service and modified in various prior proceedings before this Commission is a just and reasonable rate-making tool or method of protecting Public Service from fluctuations in the level of curtailment from its sole pipeline supplier and of protecting the Company's customers from the uncertainties of continual rate cases, which would be required without the VVAF. The new base margin, established here, which is appropriate for future VVAF filings is $30,237,995 (the difference between test year gas sales revenue less associated gross receipts taxes and test year cost of gas). The new base period supply volume which is appropriate for use in future VVAF filings is 251,796,300 therms.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

No exceptions were made to these findings, and the findings and conclusions of the Panel in the Recommended Order are hereby affirmed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Recommended Order found that the proper level of gas utility plant in service is $120,888,571 and the proper level of accumulated depreciation is $31,436,416. That finding is hereby affirmed by the Commission.

The Public Staff excepted to that portion of the Panel's Recommended Conclusion to Finding of Fact No. 5 which found that cost-free capital should be included in the capital structure at zero cost.

The Commission has considered the evidence presented with regard to the treatment of cost-free capital in this and other proceedings and finds that the recommendation of the Panel's Order should be reversed. In recent Commission Orders including the Duke Power Company Order in Docket No. E-7, Sub 237, this Commission has concluded that the accumulated deferred income taxes should be excluded from the company's investment for the purpose of determining the original cost net investment in utility plant in service. The Commission concludes that the treatment of cost-free capital should be consistent for all companies. Therefore, the Commission concludes that Public Service's reasonable original cost net investment is $83,586,747. Such amount is

composed of gas plant in service of $120,888,571 less the accumulated provision for depreciation of $31,436,416 and cost-free capital of $5,865,408.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The Public Staff excepted to the Panel's Recommended Finding of Fact No. 6 which found that the reasonable replacement cost less depreciation of Public Service's plant which is used and useful in providing natural gas service to customers in North Carolina is $152,030,980.

The Commission finds that the Panel's Recommended Order made an adjustment to the replacement cost new of $890,331 to reflect the addition of two new division office buildings and the retirement of the old buildings. Using the total replacement cost new of $205,447,270 ($204,556,939 + $890,331) the Commission finds that no mathematical error was made in the calculation of the net replacement cost of $152,030,980. Therefore, the Commission concludes that Finding of Fact No. 6 in the Recommended Order should be affirmed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Both the Public Staff and the Company took exception to the finding of the Recommended Order that the reasonable allowance for working capital for Public Service is $6,587,895.

The Commission finds the arguments and conclusions of the Recommended Order persuasive and hereby affirms the items and method used by the Panel in the Recommended Order to calculate the working capital allowance. The Commission finds, however, that due to a change made by the Commission in total operation and maintenance expenses the reasonable allowance for working capital for Public Service Company is $6,585,395 which is calculated as follows:

1/8 operation and maintenance expense	$ 1,526,409
Compensating bank balances	1,600,000
Materials and supplies	6,298,910
Average prepayments	391,328
Average tax accruals	(2,587,999)
Customer deposits	(643,253)
Total	$ 6,585,395

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Both the Public Staff and the Company excepted to the finding of the Recommended Order that the fair value of Public Service's utility plant devoted to gas service in North Carolina plus the reasonable allowance for working capital of $6,587,895 is $114,813,697.

The Commission hereby affirms the 70% weighting given to the original cost less depreciation of Public Service's plant in service and the 30% weighting given to the net replacement cost of Public Service's utility plant in the calculation of fair value. The Commission however concludes that consistent with Finding of Fact No. 5 of this Order, cost-free capital in the amount of $5,865,408 should be deducted in the calculation of the fair value of Public Service's plant in service. By giving the depreciated original cost of $89,452,155 ($120,888,571 - $31,436,416) from Finding of Fact No. 5 a 70% weighting and the depreciated replacement cost of $152,030,980 a 30% weighting and deducting cost-free capital in the amount of $5,865,408, the Commission finds that the fair value of Public Service's utility plant devoted to gas service in North Carolina plus the reasonable allowance for working capital of $6,585,395 is $108,945,790. This fair value includes a reasonable fair value increment of $18,773,648.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Public Staff excepted to the finding of the Recommended Order that the Company's test year operating revenues under present rates are approximately $66,380,445 including summer sales to Priorities 3 and 4. The North Carolina Textile Manufacturers excepted to the conclusion of the Recommended Order that "the inclusion of sales to Priorities 3 and 4 in this general rate proceeding as sought by Public Service cannot be construed to mean that emergency purchases will be allowed for any but Priorities 1 and 2 in the future."

The Commission has considered the evidence and hereby affirms the finding of the Recommended Order. It is the opinion of the Commission that, considering the problems of supply and distribution which the Company has, it is reasonable to assume that there will be some sales to Priorities 3 and 4 during the summer months. The Commission also affirms the Panel's conclusion that emergency gas purchases for any but Priorities 1 and 2 will not be allowed now or in the foreseeable future.

The Public Staff argues that the Commission has given a "green light" to the Company for summer sales below Priorities 1 and 2. The Commission is of the opinion, however, that the finding of the Recommended Order merely recognizes the reality that some level of sales to Priorities 3 and 4 will occur during the summer due to the uncertainties of supply. The Commission also affirms the conclusion of the Recommended Order that "the inclusion of sales to Priorities 3 and 4 in this general rate proceeding as sought by Public Service cannot be construed to mean that emergency purchases will be allowed for any but Priorities 1 and 2 in the future."

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The Public Staff excepted to the finding of the Commission that the appropriate level of the Company's operating revenue deductions after accounting and pro forma adjustments is $59,492,018. First, the Public Staff argued that the cost of gas included in operating expenses was overstated by the amount included for summer sales to Priorities 3 and 4. The Commission has discussed this exception previously in Evidence and Conclusions for Finding of Fact No. 9 and consistent with that finding hereby affirms the Recommended Order as to the appropriate level of expense to be included as the cost of gas for the test period.

Next, the Public Staff excepted to the level of non-GAMA (Gas Appliance Manufacturers Association) advertising expense included in operating revenue deductions. The Commission affirms the conclusions of the Recommended Order that 1/4 of the non-GAMA advertising should be eliminated from operating expense.

The last exception of the Public Staff to the level of operating expenses found reasonable by the Recommended Order concerns the amount of rate case expense included in the test year. Company witness Flanagan included $60,000 as rate case expense based on a two-year amortization period. Public Staff witness Kent decreased the Company's level of expense by $20,000 based on a three-year amortization period. The Commission is aware that the instant proceeding is the Company's second rate proceeding within the last three years. The Commission is also aware, however, that the Company's last general rate case resulted from the commercialization of the Company's LNG plant in Cary and that no such large additional investment is contemplated for the immediate future.

Based on the evidence presented, the Commission concludes that in setting rates for the future a reasonable amortization period for rate case expense is three years and a reasonable level of amortization is $40,000. The conclusion of the Recommended Order that the rate case expenses should be amortized over a two-year period is reversed.

The Commission has studied the record in this proceeding and concludes that no provision for the income tax effects of the inclusion of interest on customer deposits as an operating expense was made by either the Public Staff or the Recommended Order. The Commission concludes that such a provision should be made in the calculation of income tax expense for the test period. The Commission also finds that State and Federal income tax expense should be adjusted to reflect the end-of-period level of interest expense on long-term debt found fair in this Order.

Based on the Commission's adjustment to the Recommended Order decreasing rate case expense by $20,000, the adjustment to include interest on customer deposits as a deduction in the calculation of income tax expense, and the Commission's adjustment to the end-of-period level of interest on long-term debt, the Commission concludes that the proper level of State and Federal income tax expense is $3,015,936.

The conclusions of the Recommended Order as to the proper level of all items of operating expense not specifically mentioned herein are affirmed. The Commission concludes that the level of operating revenue deductions which should be included in the cost of service in this proceeding is $59,413,950. Such amount is composed of the following items:

Purchased gas	$34,913,359
Operation and maintenance expense	12,211,275
Depreciation	3,614,156
Taxes - other	5,659,224
Income taxes	3,015,936
Total	$59,413,950

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Public Staff excepted to the finding of the Recommended Order as to the appropriate original cost capital structure for use in the proceeding and to the following conclusions:

(1) That the Job Development Investment Tax Credit (JDC) should be included in common equity in computing the common equity capitalization ratio and allow the investment supported by this source of funds to earn the full equity rate of return as opposed to the overall rate of return.

(2) That the book common equity should not be reduced by the total amount of Public Service's 25% matching investment in exploration programs in computing the common equity capitalization ratio.

(3) That the total amount of convertible preference stock should be treated as common equity in the calculation of the common equity capitalization ratio.

(4) That cost-free capital should be included as a component of the capital structure at zero cost.

The first conclusion of the Recommended Order listed above relates to the treatment of JDC for rate-making purposes. As discussed in the Recommended Order, the Company contends that the legislative intent is for the Company to earn the full equity return on the unamortized balance of the JDC, while the Public Staff maintains that the Revenue Act

of 1971 requires only that the funds arising from the JDC should receive no less than the overall cost of capital.

The Commission has carefully reviewed and considered the evidence presented regarding this issue in this and other proceedings including the most recent Duke Power Company general rate case, Docket No. E-7, Sub 237, and concludes that the finding of the Recommended Order should be reversed. Therefore, the Commission concludes that as in other recent general rate proceedings the unamortized portion of JDC should not be included as common equity in determining the common equity capitalization ratio.

The second item listed above relates to the Public Staff's contention that Public Service's book common equity should be reduced by the amount of shareholder investment in the Company's exploration program for the purpose of calculating the capitalization ratios. The Commission hereby affirms the conclusions of the Recommended Order that the exploration program is in fact supported by funds from the total capital structure and that the Public Staff's contention that the stockholder's investment in the program should be considered 100% equity financed is unfounded and inconsistent with the Commission's Order in Docket No. G-100, Sub 22, and G-5, Sub 109, and is therefore improper.

The third item to which the Public Staff excepted concerns the treatment of the Company's convertible preference stock. Company witnesses Jackson and Rodgers treated the entire amount of convertible preference stock as if it were common equity. Public Staff witness Rosenberg treated all of the outstanding amount of the 4.40% issue and 1/2 of the outstanding amount of the 8% issue as common equity.

In his direct testimony, Mr. Rodgers stated that more than 1/2 of the 8% Cumulative Preference Stock issued has been converted into shares of common stock since its issuance in 1970. He also stated that it was anticipated that the conversion would take place at the point in time when the common dividend exceeded 88¢ per share. On cross-examination Mr. Rodgers stated that the Company's dividend has exceeded 88¢ per share since 1974 and that except for the conversion of one large block of stock in one year there has been a gradual conversion since 1970.

The Commission has considered the evidence presented on this issue and concludes that since there has been only a gradual conversion of the preference stock to common equity even though the Company has calculated that it has been beneficial to the preference stockholders to convert for over four years, only 1/2 of the outstanding 8% convertible preference stock should be included as common equity. To include more than this amount would unduly burden the ratepayers with a cost of capital which the Company is not incurring. The finding of the Recommended Order on this issue is reversed.

The fourth item with which the Public Staff took exception concerns the treatment of cost-free capital. The Commission has previously reversed the finding of the Recommended Order in Evidence and Conclusions for Finding of Fact No. 5. The Commission therefore concludes that cost-free capital will not be included in the capital structure at zero cost.

Incorporating the Commission's findings on the various issues relating to capital structure, the Commission concludes that the capital structure which is appropriate for use herein is as follows:

	Total Capital	Percent
Long-term debt	$50,910,000	56.58
Preferred and preference stock	11,124,362	12.36
Common equity	27,953,232	31.06
Total	$89,987,594	100.00

The Commission also concludes that the cost rates for long-term debt and preferred stock are 7.53% and 7.18%, respectively. The adoption of the Public Staff's embedded cost rate for the preferred and preference stock capital of 7.18% is based on the Commission's treatment of the 8% convertible preferred stock.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The Public Staff excepted to the finding of the Recommended Order that the following fair value capital structure is reasonable:

Item	Percent
Long-term debt	43.34
Preferred and preference stock	8.69
Cost-free capital	4.99
Common equity	42.98
Total	100.00

The Commission concludes that the finding of the Recommended Order as to the fair value capital structure appropriate for use in this proceeding should be reversed. Based on previous Commission findings, the Commission further concludes that when the fair value increment of $18,773,648 is added to the original cost common equity, the resulting fair value capital structure which is appropriate for use in this proceeding is as follows:

Item	Percent
Long-term debt	46.83
Preferred and preference stock	10.23
Common equity	42.94
Total	100.00

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13 AND 14

The Public Staff and the Company excepted to the finding of the Recommended Order that the fair rate of return which Public Service should have the opportunity to earn on the fair value of its investment used and useful to the ratepayers of North Carolina is 7.61%.

The determination of the fair rate of return is of great importance and must be made with great care. Whatever return is allowed will have an immediate impact on the Company, its stockholders, and its customers. The Commission has the statutory responsibility to insure that all parties are fairly and equitably treated. In the final analysis the determination of a fair rate of return is to be made by this Commission in its own impartial judgment, informed by the testimony of expert witnesses and other evidence of record. The Commission has considered carefully all of the relevant evidence presented in this case.

The Commission takes notice of the opinion of the Supreme Court of the State of North Carolina in Utilities Commission, et al. v. Duke Power Company, 285 N.C. 377 (1974), wherein the following statements concerning the level of the fair rate of return appear on 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 the Company's capital structure.

The Commission finds and concludes that the fair rate of return that Public Service should have the opportunity to earn on the fair value of its North Carolina rate base is 7.84%, which requires an increase in annual revenues from Public Service's customers of $3,427,532 based upon the adjusted historical test year. This rate of return on the fair value of Public Service's rate base will allow the Company to meet its fixed obligations and will yield a fair rate of return on Public Service's fair value common equity of approximately 8.34%, or approximately 13.92% on book common equity. The Commission concludes that this is a fair and reasonable rate of return.

In setting the return at this level, the Commission has considered all relevant testimony. The Commission has also considered the tests set forth in 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.

The following schedules summarize the gross revenues and rates of return which the Company should have a reasonable opportunity to achieve, based on the rates approved herein. Such schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions approved by the Commission in this Order.

SCHEDULE I
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
DOCKET NO. G-5, SUB 136
STATEMENT OF FAIR VALUE RATE OF RETURN
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Gas sales	$ 65,882,419	$3,427,532	$ 69,309,951
Miscellaneous	498,026	-	498,026
Total revenues	66,380,445	3,427,532	69,807,977
Operating Revenue Deductions			
Purchased gas	34,913,359	-	34,913,359
Operating and maintenance expense	12,211,275	-	12,211,275
Depreciation	3,614,156	-	3,614,156
Taxes other than income	5,659,224	205,652	5,864,876
Income taxes - State and Federal	3,015,936	1,647,025	4,662,961
Total operating revenue deductions	59,413,950	1,852,677	61,266,627
Net operating income for return	$ 6,966,495	$1,574,855	$ 8,541,350
Investment in Gas Plant			
Gas plant in service	$120,888,571	-	$120,888,571
Less: Accumulated depreciation	31,436,416	-	31,436,416
Net gas plant	89,452,155	-	89,452,155
Allowance for Working Capital			
Cash	1,526,409	-	1,526,409
Compensating bank balances	1,600,000	-	1,600,000
Materials and supplies	6,298,910	-	6,298,910
Average prepayments	391,328	-	391,328
Less:			
Average tax accruals	(2,587,999)	-	(2,587,999)
Customer deposits	(643,253)	-	(643,253)
Total allowance for working capital	6,585,395	-	6,585,395
Less: Cost-free capital	5,865,408	-	5,865,408
Original cost net investment	$ 90,172,142	-	$ 90,172,142
Fair value rate base	$108,945,790	-	$108,945,790
Rate of return on fair value rate base	6.39%	-	7.84%

SCHEDULE II
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
STATEMENT OF RETURN ON FAIR VALUE COMMON EQUITY
DOCKET NO. G-5, SUB 136
TWELVE MONTHS ENDED SEPTEMBER 30, 1977

Capitalization Ratio	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
	Present Rates - Fair Value Rate Base			
Long-term debt	$ 51,019,398	46.83	7.53	$3,841,761
Preferred and preference stock	11,145,277	10.23	7.18	800,231
Common equity	46,781,115*	42.94	4.97	2,324,503
Total	$108,945,790	100.00%	-	$6,966,495
	Approved Rates - Fair Value Rate Base			
Long-term debt	$ 51,019,398	46.83	7.53	$3,841,761
Preferred and preference stock	11,145,277	10.23	7.18	800,231
Common equity	46,781,115*	42.94	8.34	3,899,358
Total	$108,945,790	100.00%	-	$8,541,350

*Book common equity $28,007,467
Fair value increment 18,773,648
$46,781,115

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The Public Staff, the Company, and the NCTHA excepted to the findings and conclusions of the Recommended Order regarding rate design.

The conclusion of the Recommended Order that the minimum bill is the most desirable method of recovering a portion of customer costs and that such a charge for residential customers should include the first three therms of natural gas consumed is hereby reversed. The Commission is aware of various customer complaints and confusion over the minimum bill provisions and concludes that a facilities charge for residential customers of $3.50 per month is a more reasonable method of recovering customer costs.

The conclusion of the Recommended Order that rates within the various rate classes should be flat with no provision

for a summer - winter differential is affirmed. The Commission is of the opinion that the summer - winter differential proposed by the Public Staff would result in reducing revenues in the summer when the Company's revenues are at the lowest level and increasing revenues in the winter when revenues are at the highest level and, consequently, imposing tremendous cash flow problems for the Company in the summer months. The Commission also concludes that flat rates which eliminate declining blocks should encourage customer conservation.

The conclusion of the Recommended Order that master metered customers should receive only one facilities charge is affirmed. The Commission can find no merit in collecting more than one facilities charge for only one meter. These meters were installed with the provision for one customer charge and the Commission is of the opinion that it would be unfair and inequitable to change this policy now.

In Finding of Fact No. 16 of the Recommended Order the Panel concluded that prospectively volumes tendered but not taken would be treated as curtailed volumes for purposes of the VVAF. That conclusion is hereby reversed. The Commission is of the opinion that a better solution to the problem is to adopt a Rate Schedule No. 26 which will be applicable to spot sales. This rate schedule will be patterned after the Piedmont Natural Gas Company, Inc., Rate Schedule No. 108. North Carolina is already the most curtailed state in the United States, and the Commission does not wish to take any action to lose more gas.

The Commission concludes that Rate Schedule No. 26 shall be designed to permit the Company to sell gas at negotiated rates that it can neither sell pursuant to its rate schedules containing fixed rates nor place into storage for subsequent sale. Such sales may be made only to priorities below N.C.U.C. 1 and 2, and the negotiated rate may never fall below the cost of gas to Public Service. The Commission further concludes that the Company shall file monthly reports of all sales under Rate Schedule No. 26 along with an explanation of the need therefor.

The Commission concludes that with the addition of Rate Schedule No. 26 which has been discussed the rate schedule groupings as approved by the Recommended Order are appropriate for use in this proceeding.

After having considered the cost of service studies, the marginal cost data, the historical rate comparisons, the competitive cost relationship between natural gas and other alternate energy sources, the need for a more simplified rate structure, and the desirability of encouraging consumer conservation through rate design, the Commission concludes that the rates and charges contained in Appendix A which are designed to produce $69,309,951 in annual gross revenues are just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Company and the NCTMA excepted to the finding of the Recommended Order that the VVAP should be continued. The Commission affirms the conclusion of the Recommended Order that the instability and variability of future pipeline gas supplies merit the continuation of the VVAP.

The Public Staff excepted to the conclusion of the Recommended Order that prospectively those volumes tendered but not taken would be treated as curtailed volumes. The Commission has reversed this decision in Finding of Fact No. 15.

Based on the Commission's findings and conclusions in the proceeding, the Commission concludes that the new base period supply volume of 251,796,300 and the new base period margin of $30,237,995 which are established in this proceeding should be calculated as follows:

Base period supply - therms	262,177,330
Less: Company use and unaccounted for	10,381,030
Base period volume - therms	251,796,300
Gas revenues	$69,309,951
Less: Cost of gas	34,913,359
Gross receipts tax	4,158,597
	39,071,956
Base period margin	$30,237,995

SUMMARY OF CONCLUSIONS

The Commission has considered each and every exception to the Recommended Order filed by the Public Staff and adopted by the Attorney General and the City of Durham and concludes that:

1. Exception Nos. 6, 11, 12, 19, 20, 21, 22, 23, 24, 34, 39, and 40 should be allowed for the reasons and to the extent stated in the evidence and conclusions set forth above.

2. Exception Nos. 2, 3, 5, 7, 8, 9, 15, 26, 27, 28, 29, 30, 36, and 37 should be allowed in part for the reasons and to the extent stated in the evidence and conclusions set forth above.

3. Exception Nos. 1, 4, 10, 13, 14, 16, 17, 18, 25, 31, 32, 33, 35, 38, and 41 should be denied.

The Commission has considered each and every exception to the Recommended Order filed by Public Service and concludes that:

1. Exception Nos. 5 and 8 should be allowed for the reasons stated in the evidence and conclusions set forth above.

2. Exception Nos. 3, 7, and 13 should be allowed in part for the reasons and to the extent stated in the evidence and conclusions set forth above.

3. Exception Nos. 1, 2, 4, 6, 9, 10, 11, and 12 should be denied.

The Commission has considered each and every exception to the Recommened Order filed by the North Carolina Textile Manufactures Association, Inc., and concludes that:

1. Exception No. 2 should be allowed for the reasons stated in the evidence and conclusions set forth above.

2. Exception Nos. 1, 3, 4, 5, 6, 7, and 8 should be denied.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Public Staff's Exception Nos. 6, 11, 12, 19, 20, 21, 22, 23, 24, 34, 39, and 40 adopted by the Attorney General and the City of Durham are allowed.

2. That the Public Staff's Exception Nos. 2, 3, 5, 7, 8, 9, 15, 26, 27, 28, 29, 30, 36, and 37 adopted by the Attorney General and the City of Durham are allowed in part for the reasons and to the extent stated in the evidence and conclusions set forth above.

3. That the Public Staff's Exception Nos. 1, 4, 10, 13, 14, 16, 17, 18, 25, 31, 32, 33, 35, 38, and 41 adopted by the Attorney General and the City of Durham are denied.

4. That Public Service's Exception Nos. 5 and 8 are allowed for the reasons stated above.

5. That Public Service's Exception Nos. 3, 7, and 13 are allowed in part for the reasons and to the extent stated above.

6. That Public Service's Exception Nos. 1, 2, 4, 6, 9, 10, 11, and 12 are denied.

7. That the North Carolina Textile Manufacturers' Exception No. 2 is allowed for the reason and to the extent stated above.

8. That the North Carolina Textile Manufacturers' Exception Nos. 1, 3, 4, 5, 6, 7, and 8 are denied.

9. That exceptions not granted are denied.

10. That the Recommended Order is affirmed to the extent not inconsistent with this Order.

11. That the increased rates referred to in decretal paragraph Nos. 1 and 3 of the Recommended Order are disallowed to the extent they do not conform to this Order.

12. That Public Service Company of North Carolina, Inc., be, and the same is hereby, authorized to adjust and increase its rates and charges so as to produce additional annual gross revenues of $3,427,532.

13. That the proposed rates filed by Public Service which were designed to produce additional annual revenues of $5,868,656 are in excess of those which are just and reasonable and the same are hereby disapproved and denied.

14. That effective for all gas sold on or after August 7, 1978, Public Service is hereby allowed to place into effect the increased rates as set forth in Appendix A which rates are designed to produce additional annual revenues in the amount of $3,427,532.

15. That Public Service shall refund to each customer any revenues collected since August 7, 1978, in excess of the revenues which would have been collected under the rates and charges attached to this Order as Appendix A.

16. That the Company shall file amended tariffs reflecting the rates contained in Appendix A within five days of the date of this Order.

17. That Public Service shall file in its tariffs a Rate Schedule No. 26 which provides for a negotiated rate which may be used "only in the event the Company has volumes of gas that cannot be sold under other rate schedules of the Company or placed into storage for subsequent sale" as set forth in Evidence and Conclusions for Finding of Fact No. 15.

18. That the Company shall file monthly reports setting forth all sales of gas under Rate Schedule No. 26. Such report, at a minimum, shall reflect by customer the number of therms sold, prices per therm, total billing, and an explanation of the need for each sale thereto.

19. That Rate Schedule No. 20 shall provide for service under option (A) at the rate of $.02071 per therm and service under option (B) at the rate of $.04658 per therm.

20. That Public Service shall give public notice of the rate increase approved herein by mailing a copy of said notice hereto attached as Appendix B 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 9th day of October, 1978.

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

APPENDIX A
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
Docket No. G-5, Sub 136

APPROVED RATES

Rate Schedule 21 - Residential Service	
Facilities Charge	$ 3.50
All Therms	.27328
Rate Schedule 22 - Commercial and Small Industrial Service	
Customer Charge	$ 5.50
All Therms	.26212
Rate Schedule 23 - Industrial Process Rate	
Customer Charge	$50.00
All Therms	.244

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

Rate Schedule 39 - Industrial Nonboiler Rate	
All Therms	$ .22456
Rate Schedule 24 - Boiler Fuel	
All Therms	$ .219
Rate Schedule 25 - Outdoor Lighting Service	
Single Upright mantle	$ 4.65
Double Inverted mantle	4.65
Additional Inverted mantle	2.25
Additional Upright mantle	4.15
Rider A - Emergency Services	
Limited emergency service - all gas	$ .325
On-peak emergency service - all gas	.480

COMMISSIONER TATE, DISSENTING: I have previously explained my reasons for believing that JDIC should earn the full equity return in my dissent in Docket No. E-7, Sub 237. I shall not belabor the argument since a majority of the Commission has concluded otherwise.

Sarah Lindsay Tate, Commissioner

APPENDIX B

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company)
of North Carolina, Inc. for Authority) NOTICE TO CUSTOMERS
to Adjust Its Rates and Charges)

The North Carolina Utilities Commission, in a full Commission Order issued October 6, 1978, denied the full rate increase applied for by Public Service Company of North Carolina, limiting the increase to 58.4% or $3,427,523 of the increase requested.

Public Service had applied for an increase of $5,868,656 in annual revenues, which would have resulted in an overall increase of 8.9%. A Hearing Panel composed of three members of the North Carolina Utilities Commission had previously issued a Recommended Order on July 26, 1978, authorizing a $4,023,956 increase in revenues amounting to 68.6% of the increase requested. The full Commission Order reversed in part and affirmed in part the Recommended Order of the Panel.

The Commission held that the approved rates will provide an overall rate of return of 7.84% on the fair value of Public Service's property serving the public. The return on the original cost of the gas company's property would be 9.47%.

A typical residential customer who uses approximately 110 dekatherms of natural gas per year will experience a 6.5% increase in his annual gas bill due to the rate increase allowed. Under Public Service's old rate schedule a typical annual residential bill would be $384.08 and under the new rate schedule would be $409.09, or an annual increase of $25.01.

The Commission's order reversed the panel's decision which provided for a minimum bill of $5.25 for residential customers with gas water heaters and $7.00 a month for nine months for heat only customers. The new facilities charge for residential customers which does not include any volume of gas is $3.50 per month for any customer who is connected to the system. The facilities charge for commercial customers was also reduced from $11.00 in the Recommended Order to $5.50 in the Commission's Final Order.

Public Service was allowed to put its proposed rates into effect under bond on August 7, 1978, with provision for refund, pending the Commission's Final Order. In its Final Order the Commission directed Public Service to refund to its customers any revenues collected under the rates approved in its Final Order.

The Public Staff, the North Carolina Textile Manufacturers Association, and Public Service had filed formal exceptions to the Recommended Order and requested that it be reviewed and reconsidered by the full Commission on oral argument. The City of Durham and the Attorney General adopted the exceptions filed by the Public Staff. Oral arguments were held on September 11, 1978.

DOCKET NO. G-21, SUB 172

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of N.C. Natural Gas Corporation for Amendment of Rule R6-25 of the Commission's Rules and Regulations	ORDER ALLOWING N.C. NATURAL GAS CORPORATION TO IMPLEMENT A STATISTICAL SAMPLING PROGRAM FOR METER TESTING

BEFORE THE COMMISSION: On June 24, 1977, N.C. Natural Gas Corporation (N.C. Natural) filed a petition requesting that North Carolina Utilities Commission's Rule R6-25 be waived so that N.C. Natural could implement its proposed Statistical Sampling Program for testing aluminum case meters.

N.C. Natural proposes to use the criteria set forth in Military Standard 105D, "Sampling Procedures and Tables for Inspection by Attributes," to determine the sample size, random sample selection and Acceptance/Rejection Levels for any number of meters in a specific group and further it has selected an Acceptable Quality Level (AQL) of 6.5 which will assure that 93.5% or more of the meters remaining in service will be accurate with ± 3%. N.C. Natural further requests that the present ± 2% proof limitation be changed to a ± 3% proof limitation.

FINDINGS OF FACT

1. That Military Standard 105D is a valid sampling procedure for the inspection of meters by attributes.

2. That the request to change the proof limitations used in determining refunds to customers due to meter error from 2% to 3% will reduce the cost of the overall meter testing program, with minimal reduction of customer protection, since the refund rules of this Commission remain in effect require the utility to make billing adjustments on the basis that the meter is 100% accurate and requires the utility to make the adjustments on 20% of the volume since the last meter test. Such cost savings should result, ceteris paribus, in either the lowering or stablilization of rates to the customer.

3. That the Statistical Sampling Plan sets forth criteria which will govern the performance of relatively new

aluminum case meters with synthetic diaphragms, and filters to eliminate dust and dirt which can affect the accuracy of meters.

4. That N.C. Natural's method of placing certain types of meters in the same group will allow N.C. Natural to simplify their sampling program and yet maintain their capability to investigate the individual types of meters as to their performance. If one type of meter is performing badly, a new group will be formed and the statistical sampling program applied to this group.

THE COMMISSION, THEREFORE, CONCLUDES:

1. That the comparative cost of Statistical Sampling versus either the 7 year Periodic Test or the 10 year Periodic Test should effect a substantical overall savings, which will help to keep the rates to the customer lower.

2. That the change from the 2% to 3% proof limits reduces the cost of meter testing and readjustment.

3. That N.C. Natural proposes to use an Acceptable Quality Level (AQL) of 6.5 which will provide that 93.5% or more of the meters remaining in service will be accurate within 3%.

4. That the adoption of the outlined plan will eliminate unnecessary expenses for removal of acceptable meters.

IT IS, THEREFORE, ORDERED:

1. That N.C. Natural be and is hereby authorized to institute the Statistical Sampling Program to govern the performance of aluminum case meters as outlined in its application.

2. That the proof limitation of 2% be and is hereby changed to 3% for meters in the Statistical Sampling Program.

3. That should the performance of meters fail to meet the standards as set forth in this docket, i.e.; 3% proof limits, N.C. Natural will remove and readjust the entire group of meters within a 2 year period.

4. That N.C. Natural be and is hereby required to submit a monthy report within 25 days from the last day of the previous month providing data pertaining to the said Statistical Sampling Program.

5. That Rule R6-25 be waived in order that N.C. Natural's application be implemented.

ISSUED BY ORDER OF THE COMMISSION.

This 19th day of April, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 176
DOCKET NO. G-9, SUB 181

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Docket No. G-9, Sub 176 Application of Piedmont Natural Gas Company, Inc., for an Adjustment of Its Rates and Charges Docket No. G-9, Sub 181 Application of Piedmont Natural Gas Company for an Adjustment of Its Rates and Charges to Recover the Excess Cost of Emergency Gas	ORDER APPROVING GAS APPORTIONMENT PLAN

BY THE COMMISSION: On May 1, 1978, representatives of Piedmont Natural Gas Company, Inc. (Piedmont), and the Public Staff - North Carolina Utilities Commission presented to the Commission proposed plans for the apportionment of Piedmont's natural gas supplies between North and South Carolina. All parties to the above dockets were given notice of and were present at this informal proceeding.

Based on the statements made and the exhibits introduced in support thereof, the Commission finds and concludes as follows:

1. Each of the proposed plans is a workable means of apportioning Piedmont's natural gas supplies between the two jurisdictions which it serves.

2. All of Piedmont's regular sources of gas should be apportioned between North and South Carolina based on approved end-use data for the 12 months ended April 30, 1973, contained in FPC Docket No. RP72-99.

3. Exploration and development gas should be allocated between the states based on relative surcharge collections.

4. Supplemental gas supplies should be purchased to make up the deficiency in apportioned supply to serve Priorities 1 and 2 under design weather conditions.

5. System storage capacity should be apportioned to each state based on its projected storage requirements.

6. The Company should attempt to dispatch gas as apportioned. In the event of excess usage by one state

which is met by transferring gas from the other state, the acquiring state should pay for such gas at a transfer rate based on the average price paid for emergency gas by Piedmont during the curtailment period plus the average approved per Mcf margin during the curtailment period.

7. The Company should attempt to arrange with Carolina Pipeline or others to make available to North Carolina that portion of the Carolina gas which is presently unavailable to serve Priorities 1 and 2 in either state. If North Carolina accepts such gas, the price should be determined as in 6. above.

Whereupon, the Commission further concludes that the Gas Apportionment Plan, Appendix I attached to this order, is just and reasonable and should be approved.

IT IS, THEREFORE, ORDERED that the Gas Apportionment Plan attached hereto as Appendix I be, and is hereby, approved effective as provided therein.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of May, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine H. Peele, Chief Clerk

(SEAL)

APPENDIX I
DOCKET NO. G-9, SUB 176
PIEDMONT NATURAL GAS COMPANY, INC.
GAS APPORTIONMENT PLAN

1. All regular sources of gas (flowing gas) will be apportioned to North Carolina and South Carolina based on approved end-use data for the 12-month period ended April 30, 1973, contained in FPC Docket No. RP72-99. This apportionment will be made after excluding that portion of the Carolina Pipeline gas which is not presently available to serve priorities 1 and 2 in either state ("captive" gas). Exploration and development (E&D) gas will continue to be allocated based on surcharge collections in each state.

2. Captive gas deliveries shall be determined by the formula in Attachment A.

3. If an arrangement is made with Carolina Pipeline and/or others subsequent to this agreement which would make all or any part of the captive gas available to serve North Carolina, South Carolina may elect to transfer such gas to North Carolina in accordance with Item 6. Provided, however, that the North Carolina Utilities Commission may accept or

reject all or a portion of any captive gas which is made available through such arrangements.

4. If available, sufficient volumes of supplemental gas (e.g., Section 2.68 emergency gas) will be purchased for each state to make up the deficiency in apportioned supply to serve priorities 1 and 2 in each state under design weather conditions. The cost of the supplemental gas will be paid by the customers in the state for which the supplemental gas is purchased through a purchased gas adjustment clause (PGA) computed on an annual basis.

5. System storage capacity will be apportioned to each state based on each state's projected storage requirements. Volumes remaining in storage will be adjusted at the end of each curtailment period in accordance with Item 6.

6. The Company will attempt to dispatch the gas as apportioned; however, operating conditions may make such dispatching impossible. If during a curtailment period one state uses more gas (including storage withdrawals) than the volumes apportioned to it, and that excess usage is met by transferring gas from the other state, the acquiring state shall pay for such gas. Payment shall be effected through a transfer rate which will be based on the average system price paid for emergency gas by Piedmont during a given curtailment period plus the average approved per Mcf margin in effect for Piedmont during such curtailment period.

7. Gas volumes apportioned to a state but not required by that state either to serve priorities 1 and 2, or to meet minimum storage requirements, will be sold to other priorities in that state insofar as possible.

8. Gas costs will be recorded each curtailment period based on volumes and storage capacity apportioned to each state, supplemental gas purchased for each state, E & D gas allocated to each state, and captive gas retained and sold within a state.

9. This plan will become effective upon approval by the North Carolina Utilities Commission and The Public Service Commission of South Carolina and after the commission in each state has established new gas rates and new base volumes in a general rate case. The CTA formula must be revised to reflect the new apportionment method in lieu of section 5(a) of Appendix I of the order of the North Carolina Utilities Commission, in Docket No. G-9, Subs 131D and E, dated June 22, 1977.

Attachment A

CALCULATION OF CAPTIVE LSS-1 VOLUMES
DURING SUMMER PERIOD

$$\text{Volume of Captive LSS-1} = \frac{\text{Expected LSS-1 Summer Deliveries} + \text{Transco Volumes Delivered to S.C.} - \text{R.P. 72-99 Volumes For S.C. Priority 1, Co. Use \& Unacct.} - \text{Ratio of S.C. RP 72-99 Priority 2.5 To System Priority 2.5 Volumes} \times \left(\text{Total System Summer Supply} - \text{R.P. 72-99 Volumes For System Priority 1, Co. Use \& Unacct} \right)}{\text{Ratio Of N.C. R.P. 72-99 Priority 2.5 To System Priority 2.5 Volumes}}$$

$$1409\ \text{MMCF} = \frac{4085\ \text{MMCF} + 500\ \text{MMCF} - 1518\ \text{MMCF} - \frac{1979\ \text{MMCF}}{8027\ \text{MMCF}} \times \left(15{,}166\ \text{MMCF} - 7030\ \text{MMCF} \right)}{\frac{6049\ \text{MMCF}}{8027\ \text{MMCF}}}$$

DOCKET NO. G-9, SUB 176

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 RESCINDING MINIMUM BILL PROVISION

COMMISSIONERS FISCHBACH, RONEY, AND TATE: On August 7, 1978, the Commission issued an Order Setting Rates for Piedmont Natural Gas Company, Inc. (Piedmont), in the above docket. Rate Schedule 101, applicable to residential service, contains a minimum bill provision under which year-round customers pay a charge of $4.75 per month, and heat-only customers pay a charge of $6.75 per month, for the first three therms or less of gas consumed. This minimum charge is designed to allow the Company to recover the fixed costs associated with providing residential gas service.

Having become aware through customer complaints to the Commission that the minimum bill differential is operating unclearly and perhaps inequitably, the Panel, on its own motion, has reconsidered its Order of August 7, 1978. Based on the record herein, the Panel finds and concludes as follows:

1. It is in the best interest of Piedmont and its customers that the minimum bill provision of Rate Schedule 101 be rescinded and in its place there be imposed a customer charge which includes no gas consumption.

2. The correct amount of the customer charge is $4.05 per month, applicable to all customers served under that rate schedule.

IT IS, THEREFORE, ORDERED that Piedmont Natural Gas Company file revised tariffs, effective on one day's notice, removing from Rate Schedule 101 the minimum bill provision thereof and substituting a customer charge of $4.05 per month applicable to all customers served thereunder.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of August, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. H-62

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of the Housing Authority of the City of New Bern for a Certificate of Public Convenience and Necessity	) RECOMMENDED) ORDER GRANTING) CERTIFICATE

HEARD IN: City Hall Courtroom, Second Floor, 302 Pollock Street, on Tuesday, April 18, 1978, at 11:00 a.m.

BEFORE: Hearing Examiner Maurice W. Horne

APPEARANCES:

For the Applicant:

David L. Ward, Jr., Ward and Smith, P. A., 310 Broad Street, New Bern, North Carolina 28560

HORNE, HEARING EXAMINER: On January 27, 1978, the Housing Authority of the City of New Bern, North Carolina (Applicant), filed with the North Carolina Utilities Commission an application pursuant to G.S. 157-51 for a Certificate of Public Convenience and Necessity for the establishment, development, construction, maintenance and operation of 106 units of low-rent public housing and for authority to exercise the right of eminent domain in connection with the construction and development of such units.

By Order issued February 21, 1978, the Commission set the application for hearing in New Bern, North Carolina, on April 18, 1978, and required the Applicant to publish Notice of the Hearing attached to the Order as Appendix A.

No formal protests were filed to the application under the requirements of the above-mentioned Order by April 12, 1978.

Upon the call of this matter for hearing at the scheduled time and place, no one appeared in opposition to the application. The Applicant filed Affidavit of Publication reflecting publication of notice in accordance with the Commission's Order.

The Applicant presented the testimony of the following witnesses in support of the application.

Grover C. Fields testified that he has lived in New Bern approximately 35 years. He serves as principal of the New Bern High School and Chairman of the Housing Authority. He indicated that one of the most urgent needs in New Bern is for housing particularly for the elderly. He indicated familiarity with the application filed in this proceeding and that he had worked in the preparation of it. He served

as Chairman of the Housing Authority for approximately eight years and as a commissioner for approximately eleven years. He stated that currently approximately 261 people constituted a backlog need of housing for low income elderly. He stated in his opinion that the proposed location is an excellent one.

J. C. Outlaw, City Manager of New Bern for approximately 9 1/2 years, testified that there is a real need in the community for housing for the elderly and the handicapped. He stated that he was familiar with the resolution creating the proposed project and that the City has transferred boundary properties to the Housing Authority for the purpose of the project. He described the location of the proposed project as being three blocks between New South Front Street and the Trent River and Lawson's Creek with boundaries of Norwood and Bryan Street. He stated that a thoroughfare was proposed through the area but that it would not detract from the project's purposes. He described the proposed application as a major area of the city's redevelopment plans and indicated that the location proposed is a convenient location for potential residents.

Ron Clapp, Director of Community Development of the City of New Bern, who also serves as a city planner, testified regarding a 1975 house-to-house survey which has been updated and working with the Federal Government regarding housing needs in the New Bern area. He cited the percentages of population increase in both the City and Craven County between 1970 and 1975 and the projected increases to 1990, all of which showed continuing increases in percentage of population to be served by housing. He stated that there are some 400 units of substandard housing inside the City, some of which should be torn down today. He indicated that the New Bern situation is one of the worst situations he has seen anywhere. He stated that in New Bern the vacancy rate is .97% and that the Federal Standard Vacancy Rate is 6% which indicates very little turnover in housing and availability for those not having standard housing opportunities.

He stated that the proposed project would be within walking distance of the City and that the elderly could visit and shop in convenient areas. The project would be an eight story high-rise concept with elevators and no steps for the benefit of the elderly and handicapped.

Shannon Wilson of the Craven County Department of Social Services testified that she has lived in New Bern for approximately four years. She serves as a social worker and has approximately half of the elderly low income persons in Craven County to serve. She stated that most elderly cannot get up into the steps in most housing and there were many persons who would have come to testify in support of the application who could not. She testified that in the area there is a substantial problem with rats, roaches, and other aspects of substandard housing, and introduced at the

hearing five persons who would qualify for the proposed project, all of whom stated their interest in having the project and the availability of housing for them.

Jeannie Worthington, who works with the Department of Social Services and has lived in New Bern for two years, indicated that she serves the other half of Craven County and that none of the persons served by her are in the existing housing project. She stated that much of the housing is very cold in the winter and that there is a substantial problem with rats and that in her opinion approximately 150 persons known to her could qualify for the proposed project. She stated that several persons wanted to come but could not to testify in support of the application. She cited transportation problems which are encountered by the elderly which would be alleviated under the existing project for those served by the project.

Sandra P. Tootle, Social Services Director of the Housing Authority of New Bern, testified that she has lived in New Bern for approximately seven years; that she started the Housing Authority there, and was the first one employed. She indicated that there is a substantial need in the area for the Housing Project since many of the persons are not of an income level who can afford standard housing and that the Project is needed.

Charles Taylor, Executive Secretary and Director of the Housing Authority since July 1970, related a number of details which indicate a need for the proposed project in the New Bern area. He indicated that even with 579 units in New Bern which he has actively managed, currently, there are approximately 285 persons waiting to have an opportunity for housing who could qualify for the same as low income elderly. He stated that he has handled the community development acquisitions in the proposed area and cited the previous public hearings which are referenced in the application giving rise to the need for the project.

Mr. Taylor indicated that there would be some undeveloped land with large trees with an availability for those in the housing project to walk to churches and stores, doctors' offices, and to other areas of need. He indicated that the proposed project would be financed under Section 8 as described in the application by the Federal Government and that HUD establishes the rent for the project.

He indicated that in his opinion there is a critical need for housing of all types in the New Bern area and that the high-rise concept is the only acceptable concept for elderly and the handicapped and is presently being used in many cities such as Wilmington and Raleigh. He indicated that the proposed project would have assist rails, special electrical outlets, alarm systems in the buildings, and indicator lights on the stoves when they are turned on. He stated that in his opinion the proposed Housing Project

would provide a place for the low income elderly to live in safety and comfort.

The verified application and exhibits attached to the application upon motion of counsel for the Applicant were received into evidence.

Based upon the entire evidence of record, including the verified application, the Examiner makes the following

FINDINGS OF FACT

1. That the Housing Authority of the City of New Bern, North Carolina, is a municipal corporation, organized and created under the provisions of Chapter 456 of the public laws of North Carolina in 1935, and the amendments thereto, which law is known and designated as The Housing Authority Act and continues to exist under the law of the State of North Carolina.

2. That prior to the creation and organization of said Housing Authority of said City, the Board of Aldermen of the City of New Bern and many of its citizens were aware of the fact that unsanitary and unsafe dwelling accommodations, particularly for persons of low income, existed, and there was a need for establishing a Housing Authority in said city.

3. That more than 25 residents and citizens of said City, as they were authorized and privileged to do under said Housing Authorities Act, filed with the Board of the City of New Bern their petition in writing wherein they represented, among other things, that there existed in New Bern unsanitary and unsafe dwelling accommodations; that there was a lack of safe and sanitary dwelling accommodations available for all of the inhabitants of the city, and particularly persons of low income; that there was a need for establishing a Housing Authority in said City.

4. That after the filing of said petition, the Governing Board of the City caused public notice to be published and given to all of the citizens of said City, as authorized by said Housing Authorities Act, and set a date for public hearing and meeting for the purpose of considering and determining the need for establishing a Housing Authority in the City of New Bern.

5. Pursuant to the foregoing and said public notice, a public meeting was duly called and held at 8:00 p.m., December 18, 1939, in the City Hall of the City of New Bern and at that time and place a large number of citizens of said City appeared and were heard; that several citizens who opposed the creation of the Housing Authority were present and represented by counsel; that all persons present were given an opportunity to express their views on the subject.

6. That thereafter, and after all were heard who cared to be heard, the Board of Aldermen of the City of New Bern, by a vote of 8 to 1 (of a total membership of 10), adopted a resolution acknowledging that unsanitary and unsafe dwelling accommodations existed in the city; that there was a lack of safe and sanitary dwelling accommodations; that there was the need for a Housing Authority; that the petition had not been denied by the Board of Aldermen thereof within three months from the date of filing; that the Mayor of the City be promptly notified of the adoption of this resolution; that the Mayor be, and was, directed to file in the office of the City Clerk the necessary certificate evidencing the appointment of the Commissioners and that the lack of safe and sanitary dwelling accommodations in the City available for the inhabitants and the overcrowded conditions cause an increase and spread of disease and crime; that the clearance and reconstruction of areas in which the unsanitary and unsafe housing conditions exist are public uses and purposes and that it would be in the best public interest that such projects be instituted as soon as possible to relieve unemployment, to preserve the public peace, health, and safety; that the amelioration of the conditions enumerated by the creation of the Housing Authority to carry out the purposes of the "Housing Authorities Law" was declared to be a public purpose.

7. That after the findings of the aforesaid Board of Aldermen of said City and the adoption of said resolution by a majority of all the members of the Board, the Mayor of the City, pursuant to the provisions of the Housing Authorities Law aforesaid, and by virtue of his office, appointed five persons to serve as the initial Commissioners of The Housing Authority of the City of New Bern, North Carolina; that the Mayor designated James M. West as Chairman of that Authority.

8. That after the appointment of the Commissioners, a written application for a certificate of incorporation was made with the Secretary of State and said certificate and/or charter was duly issued in compliance with the foregoing and in strict accordance with The Housing Authorities Act of 1935 and the amendments thereto. After the obtaining of said Charter The Housing Authority of the City of New Bern duly met, adopted bylaws, and completed its organization as required by law.

9. That since the inception of The Housing Authority of the City of New Bern, it has been an active, viable corporation which is currently in good standing with the Secretary of State of North Carolina; and that it continues to function as a Housing Authority.

10. That in 1975 it became evident that there was still a need for public housing, particularly for the elderly, and on the 22nd day of July 1975, the City of New Bern, by and through its Board of Aldermen, recognized such need and did adopt two resolutions, one of said resolutions increased the

boundary of the housing assistance plan for the City of New Bern for the "proposed areas for Section 8 housing," and the other said resolution did declare the willingness of the City to transfer such lands as necessary to The Housing Authority of the City of New Bern for the development of such a program.

11. That The Housing Authority of the City of New Bern dedicated considerable time and effort to submitting a proposal for the creation of a housing unit for the elderly, the end product thereof being a proposal for 106 units to be constructed on New South Front Street in New Bern, North Carolina. All of the preliminary work having been done, the Housing Authority did authorize and by resolution approve the project.

12. That on June 30, 1977, The Housing Authority of the City of New Bern submitted to the Department of Housing and Urban Development a comprehensive proposal for the erection of the 106 units pursuant to Section 8 of the Housing Assistance Payments Program. That on the 28th of September 1977, the Department of Housing and Urban Development, by letter, did notify The Housing Authority of the City of New Bern that the preliminary proposal had been received and approved; and that annual contributions in the sum of $342,240 had been reserved for the project.

13. That in March 1976 the City of New Bern prepared a comprehensive "Community Development Block Grant application" which was the result of extensive research concerning the needs and present availability of housing in New Bern, North Carolina.

14. That the studies conducted by the City of New Bern illustrate and show the evidence of dilapidated and slum housing in the New Bern area which is occupied primarily by minority groups. These studies further indicate and describe the need for elderly housing particularly for elder members of minority groups.

15. That there exists a need for low-rent public housing for the citizens of the New Bern area which is not being met by private enterprise and the public convenience and necessity would be served by approval of the application herein.

16. That the particular Housing Authority and the project proposed herein is eligible for the construction of the low rent dwellings proposed within the purview of the Housing Authority Law.

17. That the Housing Authority of the City of New Bern has taken the steps required by law to enable it to duly make this application and to establish, develop, and maintain 106 units of low-rent public housing in the New Bern area.

Based upon the foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS

The Examiner concludes that the Housing Authority of the City of New Bern, North Carolina, has met the requirements of applicable law with respect to acquiring a Certificate of Public Convenience and Necessity and authority to exercise the right of eminent domain in the acquisition of property required for the construction, maintenance, and operation of 106 units of low-rent public housing for local citizens, and has demonstrated a need for such housing project in the Craven County area.

The evidence taken in this proceeding clearly indicates that those persons who testified in the proceeding and others associated with the Housing Authority in the City of New Bern and the Community Development Office of New Bern and office of Social Services have expended considerable efforts in the preparation of meeting a substantial need in the area of housing for the low income elderly. The public need is overwhelmingly established and the evidence indicates that the 106 proposed units would not be sufficient for all of the needs for this type of housing in the Craven County area.

The proposed project in concept and in location would clearly be one which would afford a safe and pleasant place for elderly to live who have low incomes. By virtue of the existing housing projects and the evidence taken herein, it is apparent that the local governmental officials involved in this proposed project are committed to not only the construction and initial operation of the project but its continuing maintenance.

Accordingly, the Examiner concludes that the application should be allowed and the Applicant should be given the authority to exercise the right of eminent domain in the acquisition of the property which will be required to serve 106 units of low-rent public housing in the Craven County area.

IT IS, THEREFORE, ORDERED as follows:

1. That the Housing Authority of the City of New Bern, North Carolina, be, and hereby is, granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance, and operation of 106 units of low-rent public housing for the citizens of the Craven County area and that this Order shall itself constitute such Certificate of Public Convenience and Necessity.

2. That the Applicant be, and hereby is, granted authority to exercise the right of eminent domain in the acquisition of property for the project proposed in the application and described more specifically therein.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of May, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-345

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Hall Callahan and Max L. Riddle, d/b/a Macon Tours, Mimosa Drive, Franklin, North Carolina - Application for Passenger Common Carrier Certificate to Operate in the Area of Franklin and Asheville, North Carolina	)))))))

RECOMMENDED ORDER GRANTING PERMANENT PASSENGER COMMON CARRIER AUTHORITY

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on August 3, 1978

BEFORE: Robert P. Gruber, Hearing Examiner

APPEARANCES:

For the Applicant:

Max L. Riddle, Partner, Macon Tours, Mimosa Drive, Franklin, North Carolina
For: Himself and his Partner, Hall Callahan

GRUBER, HEARING EXAMINER: On May 31, 1978, Hall Callahan and Max L. Riddle, d/b/a Macon Tours (Applicant), Mimosa Drive, Franklin, North Carolina, applied for authority to engage in the transportation of passengers and their baggage, as follows:

"From Franklin over Highway 28 to West Hill, thence over State Road 1343 to Cowee Ruby Mines and return over same route.

From Franklin over U.S. Highway 19A-441 to Interstate Highway 40, thence over Interstate Highway 40 to Asheville and return over same route.

From Franklin over U.S. Highway 19A-441 to State Highway 107, thence on Highway 107 to Cherokee and return over same route."

By Order dated June 28, 1978, the Commission set the application for public hearing in Raleigh, North Carolina, on August 3, 1978. By Order dated June 28, 1978, the Applicant was granted temporary authority to engage in the transportation of passengers and their baggage as described above.

At the call of the hearing the Applicant was present. No protests to the authority sought were filed with the Commission, nor did any parties appear at the hearing in opposition to the application. The Applicant offered the testimony of one of its principals, Max L. Riddle, who

testified to the qualifications of him and Hall Callahan, the equipment they owned or leased, and the need for the service. Letters in the official file of the Commission indicated that there is a substantial need for a tour service in the Franklin, North Carolina, area and that no similar service is presently being provided.

Upon consideration of the evidence presented in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the Applicant has the equipment needed to perform as a common carrier of passengers and their baggage.

2. That there is no common carrier service being provided over the routes in the present application.

3. There is a public need for such service, and such service would benefit the public need, necessity, and convenience.

4. Hall Callahan and Max L. Riddle are the principal owners and operators of Macon Tours and they have the financial resources and the experience to operate the service.

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 public convenience and necessity require the proposed service, that the Applicant is fit, willing, and able to provide the proposed service, and that the Applicant is solvent and financially able to furnish adequate service on a continuing basis. The Hearing Examiner is, therefore, of the opinion that the application should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Hall Callahan and Max L. Riddle, d/b/a Macon Tours, for authority to operate as a motor passenger common carrier as more particularly described in Exhibit A attached hereto and made a part hereof, be, and the same hereby is, approved.

2. That Hall Callahan and Max L. Riddle, d/b/a Macon Tours, file with the Commission evidence of insurance, tariffs of fares, rates and charges, lists of equipment, designation of process agent, and otherwise comply with the Rules and Regulations of the Commission and institute operations under the authority acquired herein within ten (10) days from the date this Order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of November, 1978.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

DOCKET NO. B-345

Macon Tours,
Mimosa Drive,
Franklin, North Carolina

Passenger Common Carrier Authority

EXHIBIT A

From Franklin over Highway 28 to West Mill, thence over State Road 1343 to Cowee Ruby Mines and return over same route.

From Franklin over U.S. Highway 19A-441 to Interstate Highway 40, thence over Interstate Highway 40 to Asheville and return over same route.

From Franklin over U.S. Highway 19A-441 to State Highway 107, thence on Highway 107 to Cherokee and return over same route.

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	) FURTHER ORDER) ON EXCEPTIONS) FILED PURSUANT) TO G.S. 62-90

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on April 11, 1978, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, and Robert Fischbach

APPEARANCES:

For the Applicant:

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

Phillip M. Van Hoy, Attorney at Law, Duke Power Company, P.O. Box 2178, Charlotte, North Carolina

For the Intervenor:

W.I. Thornton, Jr., City Attorney, 101 City Hall Plaza, Durham, North Carolina 27701
For: City of Durham

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: On June 8, 1977, Duke Power Company (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. 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. The matter came on for hearing as scheduled on September 20, 1977, in the County Commissioner's Room, 6th Floor, Durham County Office Building, Durham, North Carolina, before a panel of three Commissioners, Leigh H. Hammond, Ben E. Roney, and Sarah Lindsay Tate, with Commissioner Hammond presiding. On December 27, 1977, an Order Granting Partial Rate Increase was issued.

On January 5, 1978, pursuant to G.S. 62-60.1(b) Duke filed a Petition asking the full Commission to review the Order of December 27, 1977. On January 23, 1978, upon Motion of Duke, the Commission issued an Order Allowing Extension of Time to File Notice of Appeal and Exceptions to and including February 15, 1978. On February 15, 1978, upon Motion of Duke, the Commission issued an Order Allowing Further Extension of Time to File Notice of Appeal and Exceptions to and including February 20, 1978. On February 16, 1978, Duke filed Notice of Appeal, Exceptions, and Assignments of Error to the December 27, 1977, Order of the Commission. On February 27, 1978, Duke filed Motion to set Exceptions for Further Hearing.

On February 27, 1978, Duke filed a Motion asking that the oral argument in Docket No. B-209, Sub 11, be consolidated with oral argument in Docket No. B-209, Sub 12, which involved a rate application for Duke's Greensboro bus operations. On February 28, 1978, an Order was issued setting consolidated oral arguments on March 21, 1978. Upon

Motion of the Public Staff, oral agrument was again extended to April 11, 1978. On March 16, 1978, an Order was issued which extended the time for filing Statement of Case on Appeal to 30 days after any Commission Order which issued in response to oral agrument. Oral agrument before the full Commission was held as scheduled on April 11, 1978. All parties were represented by counsel.

After further hearing on exceptions, before the full Commission, and upon review of the entire record in this docket, the transcript of the hearings, the Order of December 27, 1977, and exceptions and assignments of error thereto, and the arguments of counsel, the Commission is of the opinion, and so concludes, that the exceptions filed by Duke on February 16, 1978, should be overruled and that the Order issued by the panel should be affirmed.

The Commission recognizes that it has approved tariffs for Duke's Greensboro bus system in Docket No. B-207, Sub 12, which are not uniform with those approved in this docket. Student cash fares of 25 cents were approved for Durham while the student cash fares approved for Greensboro are 20 cents. An off-peak pass was approved in Durham while no such pass was approved in Greensboro. The Commission concludes that the evidence in the two dockets reveals that the operating conditions in Durham and Greensboro are sufficiently dissimilar such that a uniformity in the tariffs between the two cities is not required. Furthermore, as a matter of law, the Commission is not required to set uniform tariffs for these two bus systems in that the systems have different operating conditions.

IT IS, THEREFORE, ORDERED as follows:

1. That Duke's numbered exceptions 1-10 filed February 16, 1978, are hereby overruled.

2. That the Commission's Order of December 27, 1978, entitled "Order Granting Partial Rate Increase" is hereby affirmed.

3. That one year from the date of this Order Duke file with the Commission information showing the effect of the tariffs approved herein on passenger usage.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of June, 1978.

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

COMMISSIONER HIPP ABSTAINED.

KOGER, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: I am in agreement with much of the substantive parts of the Recommended Order, i.e., limiting the adult fare

increase to $.40 and establishment of a $.30 fare for the elderly versus the on-peak fares of $.50 as proposed by Duke.

I also agree with the establishment of an off-peak rate. My dissent is based on the absence of uniformity and consistency between this docket and Docket No. B-209, Sub 12.

I also would introduce slightly different off-peak rates. Further, I would have introduced a discount for volume ticket purchases. Please refer to my dissent in Docket No. B-209, Sub 12, for details.

Robert K. Koger, Chairman

DOCKET NO. B-209, Sub 12

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 Greensboro, North Carolina, and Vicinity	) FURTHER ORDER ON EXCEPTIONS TO RECOMMENDED ORDER GRANTING PARTIAL INCREASE

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on April 11, 1978, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, and Robert Fischbach

APPEARANCES:

For the Applicant:

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

Phillip 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 (Duke) 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 matter was set for hearing as a general rate case and heard on Wednesday, September 21, 1977, in the Guilford County Courthouse, Greensboro, North Carolina, before a panel of three Commissioners, Robert Fischbach, John W. Winters, and Tenney I. Deane, Jr. Commissoner Fischbach presided at the hearing. On December 20, 1977, a Recommended Order Granting Partial Increase was issued. Commissioner Deane resigned from the Commission on October 17, 1977, and, therefore, did not participate in the decision.

Upon Motion of Duke, the Commission allowed an extension of time to file exceptions to the Recommended Order to and including January 15, 1978. On January 16, 1978, Duke filed six (6) exceptions to the Recommended Order and asked that the exceptions be set for oral argument. On February 17, 1978, the Commission issued an Order pursuant to G.S. 62-78(c) setting Duke's exceptions for oral argument before the full Commission on March 7, 1978.

On December 27, 1972, in a separate docket (Docket No. B-209, Sub 11), the Commission, by a panel decision, had issued a rate Order affecting Duke's bus rates in the City of Greensboro, and Duke had filed exceptions to the Order of the panel pursuant to G.S. 62-90(c). These exceptions were set for hearing on March 27, 1978. Duke moved to consolidate the two dockets for purposes of oral argument, and on February 28, 1978, the Commission granted this Motion to consolidate and set the two cases for argument on March 21, 1978. On March 15, 1978, the Public Staff filed Motion to Continue Oral Argument. This Motion was allowed and the arguments were postponed to April 11, 1978, at 9:30 a.m. The matter came on for hearing at the scheduled time and place before the full Commission.

Upon a review of the entire record in this docket, the transcript of hearings, the Recommended Order and exceptions thereto, and arguments of counsel, the Commission is of the opinion, and so concludes, that the Exceptions to the Recommended Order, as they are numbered 1-6 should be overruled, and that the Recommended Order dated December 20, 1977, should be affirmed and adopted as the Order of the Commission.

The Commission is advertent to the fact that it has approved tariffs for Duke's Durham bus system in Docket No. B-209, Sub 11, which are not uniform with the tariffs approved in this docket. Student cash fares of 25 cents

were approved in Durham while the student cash fares approved for Greensboro are 20 cents. An off-peak pass was approved in Durham while no such pass was approved in Greensboro. The Commission concludes that the evidence in the two dockets reveals that the operating conditions in Durham and Greensboro are sufficiently dissimilar such that a uniformity in the tariffs between the two cities is not required. Furthermore, as a matter of law, the Commission is not required to set uniform tariffs for these two bus systems which have different operating conditions.

IT IS, THEREFORE, ORDERED as follows:

1. That all six of the numbered exceptions to the Recommended Order filed by Duke on February 16, 1978, are hereby overruled.

2. That the Recommended Order in this docket issued on December 27, 1977, is hereby adopted and affirmed as the Commission's final Order.

3. That one year from the date of this Order, Duke file with the Commission information showing the effect of the tariffs approved herein on passenger usage.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of June, 1978.

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

COMMISSIONER HIPP ABSTAINED.

KOGER, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: I am in agreement with much of the substantive parts of the Recommended Order, i.e., limiting the adult fare increase to $.40 and establishment of a $.30 fare for the elderly versus the on-peak fares of $.50 as proposed by Duke.

My major disagreement with the Recommended Order is that I would accept, in modified form, more of the innovative-type rate recommendations proposed either by the Company, the Public Staff, or both. In addition, I would strive to maintain uniformity in the operating practices and tariffs in the two cities of Durham (concurrent Docket No. B-209, Sub 11) and Greensboro absent compelling evidence to the contrary. While there was no evidence submitted at the hearing that cost savings would result from implementation of uniform tariffs, it would appear to be logical that there would be at least some. It should be noted that even if the full revenue increase sought by Duke were to be attained, the Company would still operate at a loss. Therefore, I think it is incumbent on both the Company and the Commission to minimize all possible costs on one hand while trying to increase ridership on the other.

In terms of adopting a rate schedule which would be more likely to increase ridership and also reflect the heavier use of buses during on-peak periods, I would accept the Public Staff's recommendation on off-peak ticket packages as follows (Rose, Tr., p. 212):

Off-Peak (9:00 A.M. through 3:00 P.M.)

16 one-way rides - $5.00
[As an alternative 8 rides for $2.50 might elicit more riders - note by Koger]

30-day off-peak pass - $9.00 (unlimited rides)

While the testimony was sparse with regard to peak-load capacity problems, the operating manager in Greensboro did testify that on some trips the buses were filled (Lynn, Tr., p. 182). Also, there was testimony regarding the fact that Duke had to run more buses during the peak periods. Contrary to the Recommended Order's finding, I believe that this evidence is sufficient to demonstrate that there is a peak use period for the buses and that a lower off-peak fare has the potential of eliciting additional riders without increasing the "fixed" costs of the Company.

I would also agree with the Public Staff that there should be some incentive to the riders to purchase and use adult (on-peak) ticket packages in the hopes that this would increase ridership. I would agree to the following in that regard:

On-Peak

20 one-way rides - $7.50 (proposed by Public Staff)
10 one-way rides - $3.75 (not proposed by Public Staff)

I would include the provisions that these ride passes are good only for 60 days from date of purchase.

In reference to school fares, I believe the rate adopted in the Durham case (Docket No. B-209, Sub 11) should also be adopted in the Greensboro case. The additional five cents should produce needed revenue while at the same time allowing the rate to remain much below either the adult fare and even below the elderly or the proposed off-peak fares.

Robert K. Koger, Chairman

DOCKET NO. T-1791, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Commercial Couriers, Inc., Greensboro, North Carolina - Application for Contract Carrier Authority to Transport Group 21, Commercial Papers, Etc., Under Contract with The Northwestern Bank	)	RECOMMENDED ORDER GRANTING AUTHORITY

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 12, 1978, at 9:30 a.m.

BEFORE: Maurice W. Horne, Hearing Examiner

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina 27602

For the Protestant:

James M. Kimzey, Kimzey & Smith, Attorneys at Law, P. O. Box 150, Raleigh, North Carolina 27602
For: Financial Courier Corporation

Francis J. Mulcahy, Pony Express Courier Corporation, P. O. Box 4313, Atlanta, Georgia 30302
For: Financial Courier Corporation

HORNE, HEARING EXAMINER: By application filed with the Commission on January 16, 1978, in Docket No. T-1791, Sub 1, Commercial Couriers, Inc. (hereinafter referred to as "Commercial" or "Applicant"), seeks authority to engage in the transportation of commodities under Group 21, as follows:

"Commercial papers, cash letters, audit and accounting media and other business records, documents and supplies used in the processing of such media and records and documents and written instruments (except currency, coin and bullion) within a radius of 150 miles of Winston-Salem, North Carolina, and return of such items under bilateral contracts with the Northwestern Bank and others."

Notice of the application showing the time and place of hearing was given in the Commission's Calendar of Hearings issued January 18, 1978.

On March 1, 1978, Purolator Courier Corporation filed its protest to the application for temporary authority. Thereafter, on March 23, 1978, it filed a motion for leave to withdraw its protest which was allowed by the Commission by Order dated April 4, 1978.

On March 1, 1978, Financial Courier Service filed its Protest to the Application.

On February 15, 1978, Commercial filed its Application for temporary authority pending outcome of the hearing on the merits. By Order dated March 6, 1978, Protestant was allowed to intervene and the matter was assigned for hearing. By Order dated March 13, 1978, the Commission granted to Applicant temporary authority pending final disposition of the matter.

At the hearing, the Applicant offered the testimony of Jerry Coleman, President of Commercial, whose testimony tended to show that Commercial is a North Carolina corporation formed July 1, 1975; that he is the sole stockholder of Applicant; that prior to incorporation, he as a sole proprietor was engaged in Greensboro and its commercial zone in a pickup and delivery service of medical and optical supplies; that this business continues today; Applicant presently holds authority in Docket No. T-1791 from the Commission as a contract carrier under bilateral contract with Moses Cone Hospital in Greensboro handling laboratory work and Southern Piedmont Optical Company in Greensboro handling optical supplies and equipment; Applicant has complied with the requirements of the Commission regarding filing insurance, equipment lists, and designation of a process agent; Applicant now acts as a courier for several banks and building and loan associations in the commercial zone of Greensboro hauling the same items there as are sought in this application; Applicant also carries checks for two companies in the Greensboro commercial zone; and Applicant's president also has worked for a bank.

Applicant now has eight full-time bonded employees and proposes to hire six additional employees to provide service for the bank; Applicant has adequate equipment for handling its present business and has purchased five Datsun pickup trucks and one van for use by the Northwestern Bank.

Applicant has a bilateral contract with the Northwestern Bank providing for service to and from the bank's operating center in Winston-Salem to outlying branches of the Bank; the rates proposed to be paid are flat rates depending on the routes to be operated. Service for the bank will be dedicated and require considerable flexibility as to schedules and routes to meet the bank's needs.

Applicant also introduced its financial statement for the period ended September 30, 1977.

Applicant also presented the testimony of Raymond Harper, Senior Operations Officer and Regional Center Administrator of the Northwestern Bank, whose evidence tended to show that the bank's new operations center in Winston-Salem will require transportation of documents and papers to 35 reporting and satellite branch banks; that the Bank has a private courier service operating from its headquarters at North Wilkesboro which will provide service to the new center; that Commercial will provide service to the new center; that Commercial will have to meet the courier and make distribution of documents and papers to the other banks and return; that delays are to be expected and the Applicant will have to be flexible in meeting the bank's needs; that he expects the same care from Applicant he now has from his private courier; that routes are tentative and final routes will be based on trial and error; that it would be beneficial to the bank to have Applicant authorized to go as far as Asheville and Raleigh; and that the bank received a proposal from Protestant which may have resulted in cheaper rates but would not in his opinion meet the needs of the Bank.

The Protestant, Financial Courier Corporation, offered the testimony of Robert E. David, its Sales Representative, whose testimony tended to show that Financial has discussed the transportation needs of the bank with officials of the bank and made a proposal to meet those needs; that there would be a charge of $6.00 per hour for delays; that without knowing the amount of delays the bank could not determine how much it would have to pay for the service; and that Financial is able to provide the service needed by the bank.

Protestant also offered the testimony of Brack Bailey, its Zone Manager, who testified that his discussions with the bank indicated fixed schedules and no need for delays; that Financial could provide the service contained in its offer to the bank.

Protestant's attorney stated that Protestant did not oppose granting authority to Applicant so long as it was limited to service for the Northwestern Bank.

Briefs and proposed findings and conclusions have been timely filed by the parties.

Based upon the entire evidence of record, the application, and the briefs filed, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That Applicant, Commercial Couriers, Inc., is a North Carolina corporation engaged in the transportation of optical supplies and equipment within a radius of 65 miles of Greensboro, North Carolina, and the transportation of laboratory specimens from Randolph Memorial Hospital to Moses H. Cone Hospital under authority granted to it by the

Commission in Docket No. T-1791. In addition thereto, Applicant is engaged in the transportation within the commercial zone of Greensboro, North Carolina, of papers and documents for various banks and of checks for certain check printing companies.

2. That Applicant proposes to engage in transportation of commercial papers, cash letters and other business documents, and records under individual bilateral contract with the Northwestern Bank from Winston-Salem, North Carolina, to points within a radius of 150 miles of Winston-Salem, North Carolina, and return of such documents.

3. That the written contract between the Applicant and the Northwestern Bank has been filed with the Commission by the Applicant.

4. That the proposed operations conform with the designation of a contract carrier within the Public Utility Act.

5. That the proposed operations will not unreasonably impair the efficient service of carriers operating under existing certificates.

6. That the proposed service will not reasonably impair the use of the highways by the public.

7. That the Applicant is fit, willing, and able to properly perform the service proposed as a contract carrier.

8. That the proposed operations will be consistent with the public interest and the policy declared in the Public Utilities Act.

9. That the Applicant owns the necessary equipment and has the necessary trained personnel to serve the needs of the shipper.

Based upon the foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS

The evidence taken in this proceeding establishes that the Applicant has entered into a bilateral contract with the Northwestern Bank for the transportation of commercial papers, cash letters, audit and accounting media, and other matters specified in the description contained in the application and approved herein. Consideration of all the evidence further indicates that the Applicant is fit, willing, and able to properly perform the service proposed as contract carrier, and has all the necessary equipment and personnel to provide service under the authority sought and approved herein.

With respect to the transportation for others than Northwestern Bank, this matter is covered by Rule R2-10(d). Mr. Coleman testified in support of the application that he had actually talked and had negotiations with banks in the State including First Citizens, First Union, North Carolina National Bank, and Wachovia. This uncontradicted evidence appears at pages 97 and 98 of the transcript. Based upon this evidence and Rule R2-10(d), it is concluded that the authority granted in this case should also contain permission to serve others under individual bilateral contracts which may be hereinafter filed with the Commission by the Applicant. The grant of authority authorized herein will not unreasonably impair the efficient service of carriers operating under existing certificates.

IT IS, THEREFORE, ORDERED as follows:

1. That Commercial Couriers, Inc., Greensboro, North Carolina, be, and is hereby granted an additional contract permit in accordance with Exhibit A attached hereto and made a part hereof.

2. That the Applicant shall begin authorized operations within a period of 30 days after this Order becomes final unless the time is extended by the Commission upon written request.

3. That the authority to conduct temporary operations heretofore authorized by the Commission will terminate upon commencement of operations under this Order.

ISSUED BY ORDER OF THE COMMISSION.

This 18th day of May, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1791 SUB 1 — Commercial Couriers, Inc. Contract Carrier of Property Greensboro, North Carolina

EXHIBIT A — Commercial papers, cash letters, audit and accounting media, and other business records, documents and supplies used in the processing of such media, records and documents and written instruments (Except currency, coin and bullion) within a radius of 150 miles of Winston-Salem, North Carolina, and return of such items under bilateral contracts with the Northwestern Bank and others.

DOCKET NO. T-1791, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Commercial Couriers, Inc., Greensboro, North Carolina - Application for Contract Carrier Authority to Transport Group 21, Commercial Papers, Etc., Under Contract with the Northwestern Bank) FINAL ORDER

HEARD IN: The Hearing Room of the Commission, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, September 8, 1978, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Sarah Lindsay Tate, Edward B. Hipp, Leigh H. Hammond, and John W. Winters

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P.O. Box 1406, Raleigh, North Carolina 27602
For: Commercial Couriers, Inc.

For the Protestant:

James M. Kimzey, Kimzey, Smith & McMillan, Attorneys at Law, P.O. Box 150, Raleigh, North Carolina 27602
For: Financial Courier Corporation

BY THE COMMISSION: On May 18, 1978, a Recommended Order was issued in this docket by Hearing Examiner Maurice W. Horne granting Commercial Couriers, Inc., Greensboro, North Carolina, hereinafter referred to as Applicant, contract carrier operating authority being as follows:

"Commercial papers, cash letters, audit and accounting media and other business records, documents and supplies used in the processing of such media and records and documents and written instruments (except currency, coin and bullion) within a radius of 150 miles of Winston-Salem, North Carolina, and return of such items under bilateral contracts with the Northwestern Bank and others."

On May 31, 1978, Counsel on behalf of Protestant, Financial Courier Corporation, filed exceptions to the Recommended Order entered on May 18, 1978, and requested oral argument thereon. By Order dated June 12, 1978, the exceptions by Protestant were assigned for oral argument before the Commission on September 8, 1978.

Upon call of the matter for hearing at the time and place noted above, Counsel on behalf of both Applicant and Protestant were present and offered oral argument.

The Commission, upon a review of the entire record in this docket and careful consideration of the able arguments of Counsel on behalf of the involved parties and of the Commission's official files, is of the opinion that the findings of fact set forth in subject Recommended Order should be adopted and that the conclusions and decretal paragraphs of said Recommended Order which are in conflict with this Order should be reversed and to that end makes the following

CONCLUSIONS

That the Northwestern Bank has a need for the specific type of transportation of the commodities sought herein by the Applicant which is not otherwise available by existing carriers only within a radius of 105 miles of Winston-Salem, North Carolina.

IT IS, THEREFORE, ORDERED:

(1) That to the extent the Conclusions and decretal paragraphs of the Recommended Order in this docket dated May 18, 1978, are in conflict with those set forth herein, same are hereby reversed and that the Findings of Fact set forth in such Order are hereby adopted.

(2) That Commercial Couriers, Inc., be, and the same is hereby, granted contract carrier operating authority as more particularly set forth and described in Exhibit A attached hereto and made a part hereof.

(3) That Commercial Couriers, Inc., file with the Commission evidence of insurance, list of equipment, schedule of minimum rates and charges, individual bilateral written contract with the Northwestern Bank covering operations under the authority acquired herein, and designation of process agent to the extent it has not already done so and otherwise comply with the rules and regulations of the Commission.

(4) That unless Commercial Couriers, Inc., complies with the requirements set forth in paragraph (3) above and begins operations, as herein authorized, within thirty (30) days from the date of this Order, unless such time is extended by the Commission upon written request, the authority acquired herein shall cease and determine.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of September, 1978.

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

DOCKET NO. T-1791, Sub 1 — Commercial Couriers, Inc. Greensboro, North Carolina

Contract Carrier of Property

EXHIBIT A — Group 21, commercial papers, cash letters, audit and accounting media, and other business records, documents and supplies used in the processing of such media and records and documents and written instruments (except currency, coin, and bullion) within a radius of 105 miles of Winston-Salem, North Carolina, and return of such items under individual bilateral written contract with the Northwestern Bank.

DOCKET NO. T-1613, SUB 2
DOCKET NO. T-1895
DOCKET NO. T-1896
DOCKET NO. T-1897
DOCKET NO. T-1900
DOCKET NO. T-1901
DOCKET NO. T-1902
DOCKET NO. T-1903
DOCKET NO. T-1904

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
M.L. Hatcher Pick-Up and Delivery Service, Inc., Greensboro, North Carolina; Russell Transfer, Incorporated, Salem, Virginia; National Refrigerated Transport, Inc., Green Bay, Wisconsin; Blue Ridge Transfer Company, Inc., Roanoke, Virginia; Crete Carrier Corporation, Lincoln, Nebraska; B & L Motor Freight, Inc., Newark, New Jersey; J & M Transportation Co., Inc., Milledgeville, Georgia; N.A.B. Trucking Co., Inc., Indianapolis, Indiana; and Langer Transport Corporation, Jersey City, New Jersey - Petition for Authority to Serve the Facilities of Miller Brewing Company, Eden, North Carolina) ORDER GRANTING AUTHORITY

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on March 30, 1978, at 9:30 a.m.

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Robert Fischbach and Ben E. Roney

APPEARANCES:

For the Applicants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602

For: M.L. Hatcher Pick-Up & Delivery Service, Inc.; National Refrigerated Transport, Inc.; Russell Transfer, Inc.; Blue Ridge Transfer Company, Inc.; and Crete Carrier Corporation

Thomas W. Steed, Jr., and Noah H. Huffstetler, Allen, Steed and Allen, P.A., P.O. Box 2058, Raleigh, North Carolina 27602
For: N.A.B. Trucking Company, Inc.

Francis O. Clarkson, Jr., and William B. Webb, Jr., Craighill, Rendleman, Clarkson, Ingle & Blythe, P.A., Attorneys at Law, 3250 NCNB Plaza, Charlotte, North Carolina 28280
For: B & L Motor Freight, Inc.; J & M Transportation Company, Inc.; and Langer Transport Corporation

Paul M. Daniell, Watkins and Daniell, P.O. Box 872, Atlanta, Georgia 30301
For: J & M Transportation Company, Inc.

For the Protestants:

Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, North Carolina 27601

For the Using and Consuming Public:

Dwight W. Allen, Public Staff, Dobbs Building, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On or about December 15, 1977, the following parties filed Application with the Commission seeking irregular route common carrier authority to transport Group 21, malt beverages and related advertising materials, from Eden, North Carolina, to all points and places in the State of North Carolina, and materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages and return empty malt beverage containers from all points in the State of North Carolina to Eden, North Carolina:

1. National Refrigerated Transport, Inc., P.O. Box 51366, Dawson Station, Tulsa, Oklahoma 74151

2. Crete Carrier Corporation, P.O. Box 81228, Lincoln, Nebraska 68501

3. N.A.B. Trucking Co., Inc., 1644 West Edgewood Avenue, Indianapolis, Indiana 46217

4. Langer Transport Corporation, P.O. Box 305, Jersey City, New Jersey 07303

5. M.L. Hatcher Pick-Up and Delivery Service, Inc., 3818 Patterson Street, Greensboro, North Carolina 27407

6. Russell Transfer Incorporated, 5259 Aviation Drive, Roanoke, Virginia 24012

7. Blue Ridge Transfer Company, Inc., P.O. Box 13447, Roanoke, Virginia 24034

8. J & M Transportation Company, Inc., P.O. Box 488, Milledgeville, Georgia 31061

9. B & L Motor Freight, Inc., 140 Everette Avenue, Newark, Ohio 43054

In connection with the above applications, the Commission, on February 17, 1978, received a Petition for Emergency and Temporary Authority on behalf of all Applicants requesting Emergency Authority under N.C.G.S. 62-265 and Temporary Authority under the provisions of N.C.G.S. 62-116(a). Notice of said Petition was sent to all certificated carriers of general commodities in North Carolina by letter dated February 20, 1978.

On February 23, 1978, the Commission received a letter from J.D. McCotter on behalf of J.D. McCotter, Inc., Washington, North Carolina, which letter was treated as a protest to the above Applications. On February 22, 1978, the Commission received a Protest to the Petition by counsel for and on behalf of Burton Lines, Incorporated, Reidsville, North Carolina. A Protest to the Petition was also received on February 24, 1978, from counsel for and on behalf of Everette Truck Lines, Inc., Washington, North Carolina.

By Order issued February 27, 1978, the Commission entered an Order Acknowledging Protests and Granting Temporary Authority.

Notice of the Applications, Scope of Authority sought, and time and place of Hearing were published in the Commission's Calendar of Hearings dated February 28, 1978.

On March 1, 1978, the Commission received a Protest and Motion for Intervention from Burton Lines, Inc., protesting all of the Applications. A joint Protest was filed on March 7, 1978, by counsel for and on behalf of Everette Truck Lines, Washington, North Carolina, and J.D. McCotter, Inc., Washington, North Carolina.

On March 13, 1978, counsel for and on behalf of Burton Lines, Inc., filed a Motion to Withdraw Protest, which Motion was granted by Commission Order issued March 21, 1978.

The Public Staff of the North Carolina Utilities Commission filed Notice of Intervention in these proceedings on March 7, 1978.

The matter came on for Hearing as scheduled on March 30, 1978. All parties were present and represented by counsel. At Hearing, counsel for and on behalf of J.D. McCotter, Inc., moved to withdraw the Protest of that company and said Motion was allowed.

At the conclusion of the Hearing, parties were afforded the opportunity to file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law were filed by the Applicants on May 15, 1978, and on May 16, 1978, a memorandum of law was filed with the Commission on behalf of Everette Truck Lines, Inc., Protestant in these proceedings. A letter was received from the Public Staff on May 12, 1978, indicating that the Public Staff did not wish to file proposed findings and conclusions in these dockets.

Testimony at Hearing was presented by the following witnesses: Edward P. Geurts, Assistant Corporate Traffic Manager Operations, for Miller Brewing Company (Miller), offered testimony in support of all Applicants. Witness Geurts stated that the Miller facility at Eden, North Carolina, represents a $250 million investment and that eventual capacity will be 8.8 - 10 million barrels per day. According to Mr. Geurts, shipping will be conducted 24 hours per day, 7 days per week. He anticipates that more than 40,000 truckloads of inbound materials will be shipped to Eden annually and that some 7,014 truckloads of malt beverages will be shipped annually from the plant in intrastate commerce.

Witness Geurts further testified that the Eden facility can store less than two days of production and that shippers will be under severe time restraints. Trailers used to haul the products must be 40 feet long, closed vans suitable for handling food products with openings 90 inches by 90 inches. Some vendors require 110-inch door openings and roller bed equipment suitable for hauling metal containers.

On cross-examination, Mr. Geurts stated that the estimate of more than 40,000 inbound shipments was based on an expected 8.4 million barrel production. He did not know how many barrels would be brewed by year end 1978. Although his experience indicates that most inbound shipments are intrastate in nature, he could not give exact figures. He also stated that he had not investigated existing transportation facilities in North Carolina.

Wayne Downing, Manager of Commerce for National Refrigerated Transport, Inc. (National), testified that his company operates in 48 states and has Interstate Commerce Commission authority to haul commodities similar to those involved in the instant application. With the exception of four items, he stated that all of National's equipment could be used in the Eden operation.

On cross-examination, Mr. Downing indicated that his company owned only 10 of the 79 tractors contained in the equipment list and that none of the remaining 69 tractors are located in North Carolina. He has made no investigation of existing transportation facilities in North Carolina.

Crete Carrier Corporation (Crete) presented testimony from Noel E. Parrott, Vice President for Safety and Compliance. His company presently hauls for Miller from plants in Milwaukee, Wisconsin, and Ft. Worth, Texas. He indicated that a large number of his company's trailers are equipped with temperature control devices suitable for malt beverage operations. Although they have a terminal in Durham, North Carolina, no equipment is assigned specifically to North Carolina.

H. Frederick Heller, Executive Vice President of N.A.B. Trucking Company, Inc. (N.A.B.), testified that his company operates in 38 states and is heavily involved in the transportation needs of the glass container industry. They have authority to haul interstate glass shipments to Eden and expect to have 12-15 truckloads moving to the Eden plant daily.

Other witnesses appearing on behalf of Applicants and the company represented include: Abraham J. Langer, Langer Transport Company; Austin Hatcher, Jr., M.L. Hatcher Pick-Up and Delivery Service, Inc.; Liniel G. Gregory, Russell Transfer, Inc.; William E. Baine, Blue Ridge Transfer Co., Inc.; C.F. Schnee, Jr., B.L. Motor Freight, Inc.; and Edward L. Fox, J & M Transportation Company, Inc. Each of these witnesses offered testimony in support of his company's application. The testimony was similar to that of the other witnesses for Applicants. Generally, they described the equipment and terminal facilities of their respective company and the company's financial condition and indicated that they were ready, willing and able to provide the service described in the Applications. None of the witnesses were familiar with the existing transportation available in North Carolina.

Steven E. Everette, Vice President of Protestant Everette Truck Lines, Inc. (Everette), testified in opposition to the proposed authority. Everette has general commodities intrastate authority on and east of U.S. Highway No. 1 and from Wake County to all points and places in North Carolina. Witness Everette stated that his company has 38 enclosed trailers and is currently engaged in hauling malt beverages. His company would utilize Miller traffic from Eden to minimize deadheading from western North Carolina to the eastern part of the State. On cross-examination, witness Everette indicated that his company's authority would permit it to transport only to those distributors on or east of U.S. Highway No. 1.

Based on the testimony at hearing and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. The proposed operations conform with the definition of common carrier as outlined in N.C.G.S. 62-3 (7).

2. The Miller Brewing Company has constructed a facility at Eden, North Carolina, which represents a $250 million investment and will employ 1,500 persons in a 24-hour day, 7-day week operation.

3. The Miller Brewing Company facility at Eden, North Carolina, through its production and employment, will have a significant impact on the State of North Carolina and should be served with adequate transportation services.

4. Transportation companies serving the Miller Brewing Company plant will be subject to strict time requirements since the plant has the capacity of storing or warehousing only two days of production.

5. Some of the movements contemplated by these Applications require the utilization of special equipment including roller bed equipment and trailers with openings which are larger than normally required.

6. The potential for inbound and outbound shipments at the Eden plant is significant and will involve 50,000 truckloads of intrastate shipment when the plant reaches full capacity.

7. The public convenience and necessity require the proposed service in addition to the existing authorized transportation service.

8. Applicants, Blue Ridge Transport Co.; M.L. Hatcher Pick-Up and Delivery Service, Inc.; National Refrigerated Transport, Inc.; Russell Transfer, Inc.; B & L Motor Freight, Inc.; Crete Carrier Corp.; J & M Transportation Co., Inc.; Langer Transport Corp.; and N.A.B. Trucking Co., Inc., are fit, willing, and able to perform the proposed service.

9. The Applicants listed in Finding of Fact No. 8 are financially solvent and able to provide the proposed service on a continuing basis.

10. Said Applicants have the necessary experience and equipment to meet the transportation needs of the Miller Brewing Company Plant at Eden, North Carolina.

Based on the above Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

Both the statutes of this State and the Rules of this Commission contemplate that the Applicants will shoulder the

burden of proof in proceedings in which they seek a Certificate of Public Convenience and Necessity. In fact, N.C.G.S. 62-262(e) puts the burden of proof upon the Applicant to show:

> "That public convenience and necessity require the proposed service in addition to existing authorized transportation service....." (emphasis added)

Neither the Applicants nor the supporting shipper in this proceeding was familiar with the existing authorized transportation service in North Carolina. Although this produces an apparent weakness in the case of the Applicants, the Commission believes and concludes that a review of the entire record supports the approval of the requested authority.

Although there are approximately 120 general commodities carriers with statewide authority in North Carolina, the record discloses that a group of carriers have emerged which tend to specialize in transporting malt beverage products. The transportation of these products is subject to strict time requirements and often requires the utilization of special equipment such as refrigerated trailers, trailers with large openings, and roller bed equipment for the metal container industry.

The Commission notes that only one certificated carrier in North Carolina appeared at Hearing to protest the Applications. Although Everette Truck Lines appeared as a Protestant, the Commission notes that Everette's authority would not permit it to provide the statewide transportation services required by Miller. While the Commission is hopeful that Everette may participate in some of the traffic generated by the Eden facility, it is apparent that Everette could not provide all of Miller's transportation needs even in the areas covered by Everette's authority.

It is thus concluded that the public convenience and necessity require the proposed service in addition to existing authorized transportation service and that all Applicants in this docket are fit, willing, able, and financially capable of providing the proposed service on a continuing basis.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. A Certificate of Public Convenience and Necessity for irregular route common carrier authority be issued to Applicants, described in Exhibit A, in accordance with the description of authority contained in Exhibit B.

2. Applicants shall maintain their 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. To the extent they have not already done so, Applicants 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 Applicants comply with the requirements set forth in decretal paragraph 3. above and begin operating, as herein authorized, within a period of 30 days from the date of this Order, unless such time is extended in writing by the Commission upon written request, the operating authority acquired herein will cease and determine.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of June, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

EXHIBIT A

1. National Refrigerated Transport, Inc.
2. Crete Carrier Corporation
3. N.A.B. Trucking Co., Inc.
4. Langer Transport Corporation
5. M.L. Hatcher Pick-Up and Delivery Service, Inc.
6. Russell Transfer Incorporated
7. Blue Ridge Transfer Company, Inc.
8. J & M Transportation Company, Inc.
9. B & L Motor Freight, Inc.

EXHIBIT B
IRREGULAR ROUTE COMMON CARRIER AUTHORITY

Transportation of Group 21, commodities as follows:

(1) Malt beverages and related advertising materials from the plantsite and facilities of Miller Brewing Company located at or near Eden, North Carolina, to all points and places within the State of North Carolina.

(2) Materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages and returned empty malt beverage containers from all points and places within the State of North Carolina, to the plantsite and facilities of Miller Brewing Company, located at or near Eden, North Carolina.

RESTRICTION: The authority granted herein is restricted against the transportation of commodities in bulk, in tank vehicles.

DOCKET NO. T-1764, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Mercer Bros. Trucking Co., Wilson, North Carolina - Application for Authority to Transport Liquid Nitrogen, Liquid Fertilizer, And Liquid Fertilizer Materials, Statewide) FINAL ORDER

HEARD IN: The Hearing Room of the Commission, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, September 29, 1977, at 10:00 a.m.

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

APPEARANCES:

For the Applicant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602

J. Russell Kirby, Kirby & Clark, Attorneys at Law, P.O. Box 249, Wilson, North Carolina
For: Mercer Bros. Trucking Co.

For the Protestants:

Thomas W. Steed, Jr., Allen, Steed & Allen, P.A., Attorneys at Law, P.O. Box 2058, Raleigh, North Carolina 27602
For: Kenan Transport Company, Inc., O'Boyle Tank Lines, Inc., and Fleet Transport Company, Inc.

BY THE COMMISSION: On July 5, 1977, a Recommended Order was issued in this docket by Hearing Examiner Robert P. Page granting Mercer Bros. Trucking Co., Wilson, North Carolina, hereinafter referred to as Applicant, common carrier authority to transport Group 21, liquid nitrogen, liquid fertilizers, and liquid fertilizer materials in tank trucks over irregular routes throughout the State of North Carolina and between all points and places where said commodities are transported, statewide.

On July 19, 1977, prior to the effective date of the subject Recommended Order, counsel on behalf of Protestants Kenan Transport Company, Inc., and Fleet Transport Company, Inc., filed exceptions to the Recommended Order entered on July 5, 1977, and requested oral argument thereon. By Order dated July 25, 1977, the Commission assigned the exceptions of Protestants for oral argument before the Commission on August 16, 1977, which was subsequently continued until September 29, 1977.

Upon call of the matter for hearing at the time and place noted above, counsel on behalf of both Applicant and Protestants were present and offered oral argument.

Upon a review of the entire record in this docket, and careful consideration of the able arguments of counsel on behalf of the involved parties and of the Commission's official files, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant, Mercer Bros. Trucking Co. seeks common carrier authority from the Commission to engage in the transportation of Group 21, liquid nitrogen, liquid fertilizers, and liquid fertilizer materials in tank trucks, over irregular routes throughout the State of North Carolina and between all points and places where said commodities are transported, statewide.

2. That Mercer Bros. Trucking Co. is a corporation duly organized under the laws of this State with Jerry Dean Mercer being President and holder of all of the stock thereof and his wife, Vaness C. Mercer, being secretary and treasurer.

3. That the Applicant currently holds Certificate No. C-1055 authorizing the transportation of general commodities as well as certain specified commodities as an irregular route common carrier between certain points in North Carolina.

4. That the Applicant maintains a terminal facility in Wilson, North Carolina, and employs two office employees in addition to its President and 18 drivers including four owner-operators and one full-time mechanic and one part-time mechanic.

5. That the Applicant maintains 18 tractors (14 company owned), 14 flat-bed trailers, five van type trailers, and is in a position to acquire seven stainless steel tank trailers suitable for the transportation of the commodities sought herein in the event the subject application is granted.

6. That the Applicant experienced gross operating revenues in the year 1976 in the amount of $610,000, with a resulting net profit of $120,000.

7. That within a radius of 25 miles of Wilson, North Carolina, are located numerous fertilizer manufacturers, dealers and sales outlets, and farmers with their own storage tanks.

8. That the major sources of supply of the commodities involved herein are Wilmington, Beaufort, Tunis, and Fayetteville, North Carolina.

9. That Kaiser Agricultural Chemicals (Kaiser) markets liquid and dry fertilizer, fertilizer materials, and agricultural chemicals and within the territory encompassed between Kerr Lake on the northwest to Elizabeth City on the northeast to New Bern on the southeast to Harnett County on the southwest, it maintains two plants in Wilson, North Carolina, and one plant in Elizabeth City, North Carolina.

10. That the plants of Kaiser located at Wilson and Elizabeth City, North Carolina, receive liquid fertilizer materials primarily by rail; however, there is often a need to obtain supplemental supplies from Tunis, Beaufort, Fayetteville, and Wilmington, North Carolina.

11. That the Kaiser plant in Elizabeth City, North Carolina, produces approximately 6,000 tons of liquid fertilizer annually and its two plants in Wilson produce approximately 10,000-12,000 tons each annually thus resulting in the filling of its storage facilities in one 12-hour working day.

12. That the liquid fertilizer and liquid nitrogen business is very seasonal in nature with the bulk of liquid fertilizer moving from March through May and liquid nitrogen from January through April and that if a company is not able to make deliveries within 24 to 36 hours, its customers will go elsewhere since the product is virtually the same and that delivery time is critical due to the weather.

13. That Kaiser uses its own vehicles and those of East Coast Transport Company for its transportation to approximately 120 different points in North Carolina and normally receives 25 to 30 orders per day during the busy season and has a need to transport at least 600 truckloads of the subject commodities on an annual basis between the sales district of witness Smith.

14. That P.L. Woodard and Company, Wilson, North Carolina, is a local distributor for farm supplies, fertilizers, and nitrogen solution and is a dealer for Kaiser with various size storage tanks in and around its sales territory and has approximately 400 to 500 customers located within a 25- to 35-mile radius of Wilson, North Carolina.

15. That P.L. Woodard and Company has a need to have the subject commodities delivered to its facilities in order to provide its customers with the fertilizer they require for

their crops and has experienced problems having such products delivered to its storage facilities during the peak period.

16. That Southern of Rocky Mount, Inc., Rocky Mount, North Carolina, is in the business of offering liquid nitrogen to its customers and to commissioned agent organizations and maintains storage facilities for liquid nitrogen in Rocky Mount, Dunn, Spring Hope, Macclesfield, Pinetops, and Taylors Gin, North Carolina, and serves approximately 1,000 customers primarily within a 40- to 50-mile radius of Rocky Mount, North Carolina.

17. That Southern of Rocky Mount, Inc., purchases its product in Georgia but it is shipped from storage points in Morehead, Beaufort, Wilmington, and Fayetteville by trucks and that the sale of its liquid nitrogen is dependent upon a good service record and obtaining prompt deliveries due to the competitive nature of the business.

18. That Southern of Rocky Mount, Inc., has experienced delays in obtaining liquid nitrogen due to the lack of adequate transportation during the five weeks of the peak season.

19. That Tri-Chemical Company deals in farm chemicals, fertilizers and supplies with plants located in Rocky Mount, Plymouth, and Elizabeth City, North Carolina, and receives liquid nitrogen from Beaufort, Tunis, Wilmington, Fayetteville, and Morehead, North Carolina, and conducts the majority of its business within a 50- to 60-mile radius of Rocky Mount serving approximately 800 customers.

20. That Tri-Chemical Company requires about 400 to 500 truckloads of inbound shipments, 650 to 700 truckloads of clear liquid fertilizer outbound and 450 to 500 truckloads of 30% liquid nitrogen fertilizer outbound and experiences problems of securing motor carriers to deliver to farmers and customers during the peak season.

21. That Borden, Inc., Smith-Douglas Division, Wilson, North Carolina, has approximately 2,500 customers within a 40- to 50-mile radius of Wilson, North Carolina, and maintains storage facilities in surrounding areas and has experienced shortages in its storage facilities due to the lack of adequate transportation.

22. That Kenan Transport Company, Inc., Chapel Hill, North Carolina; O'Boyle Tank Lines, Inc., Washington, D.C.; and Fleet Transport Company, Inc., Nashville, Tennessee, (Protestants) are certified carriers in North Carolina intrastate commerce and hold authority to transport the commodities sought in the application herein.

23. That Kenan Transport Company, Inc., is engaged in intrastate commerce and maintains 13 stainless steel trailers in North Carolina and maintains terminals closest

to the Wilson-Rocky Mount area at Wilson and Selma, North Carolina, and would provide additional service in the Wilson area on a day or so notice by coordinating an inbound and outbound load thereby using one trailer or bringing equipment in from Virginia or South Carolina with proper planning.

24. That O'Boyle Tank Lines, Inc., maintains six stainless steel trailers in North Carolina and maintains terminals closest to the Wilson-Rocky Mount area at Apex and Mt. Olive, North Carolina, and could provide additional service in the involved area upon proper notice.

25. That Fleet Transport, Inc., maintains approximately five stainless steel trailers in North Carolina and has terminals closest to the Wilson-Rocky Mount area located at Lexington and Charlotte, North Carolina, and could provide additional service in the involved area on proper notice.

Based upon the aforesaid Findings of Fact, the Commission makes the following

CONCLUSIONS

(1) That the transportation of liquid fertilizer and liquid fertilizer materials is very seasonal in nature with the bulk of such products being moved from January through May and that the use of liquid fertilizer and liquid fertilizer materials is increasing from year to year in proportion to dry fertilizer.

(2) That liquid fertilizer and liquid fertilizer materials is virtually indistinguishable between manufacturers and, therefore, the sale of the product to the dealers and farmers is contingent upon prompt delivery.

(3) That the Applicant is fit, willing, and able to properly perform the proposed service sought herein.

(4) That the Applicant is solvent and financially able to furnish adequate service on a continuing basis under the authority sought herein.

The Commission further concludes that public convenience and necessity require the transportation of the commodities sought herein only between all points and places in North Carolina on and east of U.S. Highway 1 in addition to presently existing authorized transportation service and that the Recommended Order issued July 5, 1977, should be amended as hereinabove described and set forth.

IT IS, THEREFORE, ORDERED:

(1) That the Recommended Order in this docket dated July 5, 1977, be, and the same is hereby, amended to reflect the provisions hereinafter set forth.

(2) That Mercer Bros. Trucking Co. be, and the same is hereby, granted authority to engage in irregular route common carrier operations as set forth in Exhibit B attached hereto and made a part hereof.

(3) That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed annual report to the Commission can be readily identified from the books and records and can be utilized by the Applicant in the preparation of said annual report. A copy of the annual report form shall be furnished to the Applicant upon request to the Accounting Division.

(4) That Mercer Bros. Trucking Co. file with the Commission evidence of insurance, list of equipment, tariff of rates and charges, and designation of process agent to the extent it has not already done so and otherwise comply with the rules and regulations of the Commission prior to commencing operations under the authority acquired herein.

(5) That unless Mercer Bros. Trucking Co. complies with the requirements set forth in decretal paragraph (4) above and begins operating, as herein authorized, within a period of 30 days from the date of this Order, unless such time is extended in writing by the Commission upon written request, the operating authority acquired herein will cease and determine.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1764, SUB 2

MERCER BROS. TRUCKING CO.
Highway 301 South
Wilson, North Carolina 27893

IRREGULAR ROUTE COMMON CARRIER AUTHORITY

EXHIBIT B

Transportation of Group 21, liquid nitrogen, liquid fertilizers and liquid fertilizer materials in tank trucks over irregular routes between all points and places in North Carolina on and East of U.S. Highway No. 1.

DOCKET NO. T-1077, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Purolator Courier Corporation, 3333 New Hyde Park Road, New Hyde Park, New York 11040 - Application for Authority to Transport Group 21, Articles, Packages, and All Commodities Moving in Courier Service, with Certain Exceptions, Statewide	) RECOMMENDED ORDER) GRANTING COMMON) CARRIER AUTHORITY

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 13, 14, 15, and 16, 1977

BEFORE: Sarah Lindsay Tate, Hearing Commissioner

APPEARANCES:

For the Applicant:

John V. Hunter III, Hunter & Wharton, Attorneys at Law, P. O. Box 448, Raleigh, North Carolina 27602

Peter A. Greene, Caldwell & Greene, Attorneys at Law, 900 17th Street, N. W., Washington, D.C. 20006

Rudy Yessin, P. O. Box B, Frankfort, Kentucky 40602

John M. Delany, General Counsel, Purolator Courier Corporation, 3333 New Hyde Park Road, New Hyde Park, New York 11040

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27602
For: Greyhound Lines, Inc., and Observer Transportation Company

Henry S. Manning, Jr., and Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27609
For: Continental Southeastern Lines, Inc., and Carolina Coach Company

David L. Ward, Jr., Ward & Smith, P.A., Attorneys at Law, 310 Broad Street, New Bern, North Carolina 28560
For: Seashore Transportation Company

For the Intervenor:

Theodore C. Brown, Jr., Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina
For: The Using and Consuming Public

TATE, HEARING COMMISSIONER: By application filed with the Commission on April 29, 1977, Purolator Courier Corporation (hereafter referred to as Purolator or the Applicant), 3333 New Hyde Park Road, New Hyde Park, New York, seeks irregular route common carrier authority as follows:

"Commodity and Territory Description:

Articles, packages, and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina, except:

1. Commercial papers, documents, written instruments, and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts, and other bank stationery;

3. Whole human blood and blood derivatives;

4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith.

Definition:

Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

Restrictions:

(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than one hundred (100) pounds from one consignor at one location to one consignee at one location in any one day."

Notice of the application was published in the Commission's Calendar of Hearings issued May 18, 1977, and a public hearing thereon was scheduled to begin on June 28, 1977. By Motion filed June 10, 1977, Purolator requested a

postponement and continuance. By Order of June 15, 1977, the Commission continued the hearing to September 13, 1977.

Protests and Motions for Intervention in this proceeding were filed by Observer Transportation Company, Greyhound Lines, Inc., Continental Southeastern Lines, Inc., Carolina Coach Company, Seashore Transportation Company, and the Public Staff North Carolina Utilities Commission, each being allowed by subsequent Order.

The matter came on for hearing as scheduled, and all parties were present and represented by counsel.

The following is a summary of the relevant testimony of the Applicant's witnesses and of supporting shippers:

Joel P. White, Senior District Manager for North Carolina operations and sales of Purolator Courier Corporation, testified that Purolator presently transports audit and accounting media, business records, films, and radioactive isotopes, among other items, pursuant to contract carrier authority granted by this Commission and to common carrier authority granted by the Interstate Commerce Commission; that its terminal facilities are located in Charlotte, Cary, and Wilson; that Purolator operates some 44 vehicles and employs some 85 persons in North Carolina; that under Purolator's current operations, service is provided by means of a basic route structure which is adjusted from time to time to meet customer needs; that, generally, packages are picked up at the close of the shippers' business day and delivered to the consignee early the next morning; that Purolator does not operate any mobile lifts, tourmotors, or other such freight-handling equipment, nor does it warehouse any freight; that all shipments are transferred by hand from one vehicle to another; that Purolator plans to integrate its proposed operations with the service it is currently providing in North Carolina; that its vehicles here are now operating at between 10% and 75% of capacity in transporting commodities for which it holds authority as a contract carrier; that over the past 15 months it had had numerous contacts with people needing expedited service of the kind proposed by Purolator, which is not otherwise available; that, in his opinion, bus companies and UPS are not in competition with Purolator; that he believes that, if the application is granted, the new business will come from deterioration of the postal service and economic growth in the areas served and any diversion of revenues from existing carriers would be insignificant; that the rate structure has not been finally determined; and that Purolator differs from UPS in that Purolator has scheduled deliveries and its traffic is time critical.

Edward F. Tasker, Vice President of Finance, Purolator Courier Corporation, testified that he is responsible for all general accounting and preparation of financial statements for the Company; that he was not aware of any changes in Purolator's North Carolina operations that would

result in a difference in financial conditions of the Company related to intrastate revenues, which the annual report shows were $761,929 for North Carolina intrastate; that he was unable to state the Company's North Carolina intrastate expenses for 1976 or its revenues and expenses for the first six months of 1977; and that the North Carolina gross operating revenues for Purolator for 1974 were $990,451; for 1975, were $1,111,150; and for 1976, were $1,543,402.

J. B. Huff, E. I. Dupont Company, Wilmington, North Carolina, testified that he desired the transportation of textile fiber samples, fabric samples, and raw yarn three times a week between the Wilmington (Cape Fear) manufacturing facility and the sales office in Charlotte; that these commodities are shipped in packages usually weighing approximately 10 pounds; that, due to location of the Cape Fear plant [15 miles from the nearest bus station], transportation is presently provided by private vehicle and Commercial and Package Delivery Service; that neither type of service is satisfactory, since the former diverts personnel from the tasks they have otherwise been hired to perform, while the latter charges for its service on a per mile basis, thereby imposing rates which are excessive from the shipper's perspective; that shipper would use Purolator's service for emergency or expeditious shipments, three to five per week, which would be diverted from Commercial and Package Delivery Service.

James Norfleet Nutt, Heavy Equipment Division of Gregory Poole Equipment Company, Raleigh, North Carolina, testified that his company needs to send repair and replacement parts for heavy industrial and road construction equipment to branch offices and customers located at temporary construction sites or other not easily accessible locations in the 54 eastern counties of North Carolina; that shipper presently uses the service provided by parcel post, United Parcel Service (UPS), Commercial and Package Delivery Service, motor freight, bus, company trucks, and a company airplane; that shipper occasionally receives orders after the last bus has left to Edenton; that bus cost is reasonable but rates of other carriers are high; that, if the application is granted, shipper will tender to Purolator all of its emergency traffic to job sites which are temporary or not easily accessible; that such emergency traffic amounts to five to 10 bus shipments per week out of an average of 30 bus shipments per day.

Walton Aldred, The Terrell Machine Company, Charlotte, North Carolina, testified that his company requires the transportation of repair and replacement parts for textile manufacturing machinery to approximately 80 textile mills located throughout the State, primarily along and west of Interstate 85; that, if Purolator's service was available, shipper would tender it approximately two to six shipments per week to complement existing service; that UPS is providing reliable 2-day, door-to-door service; that bus

service is inconvenient, some customers are not served by bus routes, and packages may be misrouted; that shipper presently uses the service provided by UPS (about 95% of all shipments), bus, and motor freight; that shipper plans to continue using these services where appropriate; and that about half of the shipments tendered to Purolator would be diverted from bus express.

David H. Pfaff, Pfaff's Auto Glass, Inc., Winston-Salem, North Carolina, testified that his company is engaged in the sale and installation of automobile glass; that sales are made primarily to body shops, car dealers, trucking companies, and school bus garages located in approximately 40 North Carolina counties; that, because of the nature of the shipper's product, many of its shipments must be handled expeditiously to insure quick repair of the damaged vehicles for which the glass is intended; that shipper presently uses Midstate Delivery Service, UPS, bus, and private vehicle to transport these shipments; that such services have not proven fully adequate to meet the shipper's transportation needs; that complaints include delays and breakage; that UPS and bus carriers do not transport windshields; that Pfaff presently ships between 50 and 100 windshields a week; that, in addition, five to 10 shipments of tempered glass are made each day by bus from Pfaff's suppliers in Charlotte; that each of these shipments weighs no more than 40 pounds; that, if the application is granted, shipper would use Purolator to transport most of these shipments; and that cost is a factor in determining the choice of service.

Jimmy Baker, American Zinzer Corporation, Charlotte, North Carolina, testified that his company is engaged in the sale and service of German textile manufacturing machinery; that shipper presently serves customers at Eden, Greensboro, Henderson, Erwin, Burlington, Creedmoor, Salisbury, Washington, Enka, Saint Pauls, Mebane, Research Triangle, Shelby, Kings Mountain, Gastonia, Cherryville, Yanceyville, Statesville, Newton, Maiden, Saxapahaw, Hope Mills, and Gibsonville and tenders approximately 40 parts shipments a week, most of them to UPS; that shipper presently uses bus and private vehicle for critical shipments, about four or five a week; that, while existing service has been generally satisfactory, complaints include delay and misdelivery of shipments and cost and inconvenience of trips to bus stations; and that, if this application is granted, shipper would like to use Purolator for all shipments now made by bus.

Herbert Haslam, Comp-Air and Equipment Company, Inc., Charlotte, North Carolina, testified that he is engaged in the distribution and service of Worthington Air Compressors, which are used principally in manufacturing plants to operate machinery; that he presently serves customers located in and around Asheville, Winston-Salem, Greensboro, Fayetteville, and Goldsboro; that he normally uses the services provided by UPS and, occasionally, bus and private vehicle to transport replacement parts; that he has used bus

service only about six times in the past two years; that his dissatisfaction with existing service includes inconvenience of going to the bus station and inability to inform customers when package will arrive; that he usually tenders three or four critical shipments a week, weighing usually 10 to 35 pounds each; and that, if the application is granted, he would use Purolator for all critical shipments unless customer instructed him to use bus service.

William F. Steele, King Photo Supply, Raleigh, North Carolina, testified that his Company is engaged in the sale and distribution of professional photographic and graphic arts supplies, including cameras, solvents, inks, papers, and films; that his customers (who represent 175 to 200 active accounts and include photographers, newspapers, and printers) are located generally in eastern North Carolina in such cities as Elizabeth City, Wilson, Rocky Mount, Goldsboro, Wilmington, and Nashville; that shipper uses UPS primarily but uses bus for emergencies (normally same-day service) and various trucking companies for bulk items; that shipper also has a contract carrier arrangement with Raleigh Delivery Service; that UPS is generally satisfactory except for next-morning or weekend delivery of perishable items; that bus service is satisfactory for expedited shipments but is inconvenient; that cost is a factor although the customer generally pays for this time of transportation; and that, if the application is granted, shipper will tender Purolator approximately five or six shipments a week, each weighing between 10 and 40 pounds, which would be diverted from UPS, and would continue to use bus service.

Gayle Meredith, Piedmont Engraving Company, Winston-Salem, North Carolina, testified that her company is engaged in the business of color separation and film work on behalf of printing companies and advertising agencies; that its customers are located throughout North Carolina, including Raleigh, Charlotte, Asheville, Asheboro, Zebulon, and North Wilkesboro; that approximately five shipments, each weighing between one and 10 pounds, would be tendered to Purolator each week if the application is granted; that the company presently uses bus and UPS to transport the commodities it tenders for shipment; that the company would like to have late-afternoon pickup, overnight transportation and next-morning delivery service so that it would have most of the day to complete work for its customers and return the finished product quickly; that it has experienced delay and damage with both bus and UPS; and that cost is not a factor in choice of service since the customer pays it and decides what transportation means will be used.

James B. Couch, McKesson & Robbins Drug Company, Charlotte, North Carolina, testified his company is engaged in the sale and distribution of health and prescription needs and controlled substances; that its customers include hospital pharmacies and retail drug stores located primarily in the eastern part of North Carolina; that these customers are regularly served on a scheduled basis, five days a week,

by shipper's private fleet of eight trucks; that shipper would use the proposed service on weekends, as well as during the week, for shipments which require immediate transportation and which would otherwise have to wait for shipper's scheduled run; that approximately 18 shipments, each weighing less than 50 pounds, are involved in such transportation each week and 10 to 12 would be diverted to Purolator; that shipper presently uses the services of Observer Transport and Harper Trucking Company and uses bus service about six times a year when a customer requests it; that shipper rarely uses UPS; that cost is not a factor in choice of service; that Observer Transport and Harper Trucking Company normally handle shipper's larger packages during the week and have generally proven adequate in the rendition of this service, but neither carrier offers weekend service to the points served by shipper; and that use of Purolator would have a minimal effect on shipments by Observer and Harper.

Michael D. Galliger, Aerotron, Raleigh, North Carolina, testified that his company is engaged in the manufacture of 2-way radios and fuel-control equipment used in gasoline fuel pumps; that its customers include dealers who supply equipment to gas station operators and various governmental organizations and private businesses using 2-way radios, including the North Carolina State Bureau of Investigation, taxis, and trucking companies; that shipper's support of the present application is based upon its need for the transportation of emergency repair parts as well as shipments which must be moved on Saturday; that shipper presently utilizes UPS, bus, and conventional trucking companies; that current service is generally good; that UPS is unable to provide consistently expeditious service, while bus has the added inconvenience of no door-to-door pickup and delivery; that conventional trucking companies, because of the nature of their operations, have been found convenient and adequate only in the transportation of packages weighing more than 100 pounds; that none of these carriers provides door-to-door service on Saturday; that, if the application is granted, shipper would tender Purolator approximately five shipments a week, each shipment weighing from 10 to 37 pounds; and that Aerotron follows customers' instructions as to emergency shipments since the customer pays the cost.

Alvin Hall, Raleigh/Durham Aviation, Raleigh, North Carolina, testified that his company is engaged in the business of servicing aircraft and transports aircraft parts, such as spark plugs, turbochargers, and exhaust stocks, between its facilities at Raleigh/Durham Airport and various other airports throughout the State of North Carolina; that during July and August shipper tendered for transportation approximately 100 shipments weighing less than 50 pounds; that 15% of these shipments were moved by bus and the remaining 85% by UPS; that UPS is satisfactory; that bus service is inconvenient with the closest bus terminal being located 15 miles from Raleigh/Durham Airport;

that shipper also uses motor freight and air freight; and that shipper would use whatever carrier would make the fastest delivery to meet customer demands.

B. H. Fishel, Carswell Distributing Company, Winston-Salem, North Carolina, testified that his company is engaged in the wholesale distribution of lawn and gardening equipment, selling parts to approximately 800 dealer customers throughout the State; that 75% of shipper's business occurs between February and June; that, at the present time, shipper uses UPS almost exclusively to handle these shipments because of door-to-door service; that UPS gives good service but is limited to 24- to 48-hour delivery service; that bus service is used infrequently because of inconvenience; that, if the application is granted, shipper would tender to Purolator approximately three shipments a week, each shipment weighing less than 50 pounds; that during the busy season (February-June) there would be shipments every day; and that the customer pays the cost and makes the choice of transportation.

Charles Barnes, Barnes Garage, Rock Ridge, North Carolina, testified that he is a farm equipment dealer; that he requires transportation of emergency parts shipments within a 25-mile radius of Rock Ridge, as well as the transportation of inventory parts to points located between Greensboro and Elizabeth City; that the emergency shipments average one a day; that, in addition, he requires expeditious inbound service on parts he has ordered from his suppliers located at such points as Charlotte, Greensboro, and Lewiston. Shipper presently uses bus, UPS, and parcel post; that attempts to use bus service have been frustrating because of distance from the stations involved; that his company is located 10 miles from a bus terminal; that UPS has proven incapable of providing overnight transportation in those areas where the shipper is most in need of such service; that, if the application is granted, he intends to tender to Purolator approximately one inbound and one outbound shipment a day, six days a week, each weighing less than 50 pounds; and that, while cost is a factor, he often has the customer pay the freight.

William H. Owen, Jack Eckerd Drug Company, Clearwater, Florida, testified that his company is engaged in the sale of merchandise which is distributed by retail drug stores and presently operates 102 drug stores within North Carolina, each served from a distribution center and warehouse located in Charlotte; that his company specifically requires the expeditious late afternoon pickup and early morning delivery of emergency replacement drugs which are necessary to restock 10 stores located at North Wilkesboro, Mount Airy, Reidsville, Henderson, Roanoke Rapids, New Bern, Morehead City, Jacksonville, and Wilmington; that it also requires the transportation of eyeglass prescriptions and optical goods between its Charlotte facility and its completed or soon-to-be completed optical centers located at Gastonia, Salisbury, Concord,

Charlotte, New Bern, Asheville, Wilmington, Raleigh, Durham, Chapel Hill, and Winston-Salem; that it presently uses private vehicles and mail service to effect transportation of the involved commodities; that private vehicles are used only for routine shipments transported according to a predetermined schedule; and that, if the application is granted, shipper will tender Purolator approximately 20 shipments a week, each shipment weighing less than 50 pounds.

Robert Wickwire, General Scientific, Charlotte, North Carolina, testified that his company is engaged in distributing laboratory supplies, including specimen analysis material, to pathology laboratories throughout the State of North Carolina; that it requires overnight transportation of emergency items with door-to-door delivery and prefers a minimum of handling on such items; that it presently uses UPS for about 80% of its shipments and also private vehicles, bus, and conventional trucking companies, including Standard Trucking; and that if the application is granted, shipper will tender to Purolator approximately two shipments a week which would be diverted from bus.

Ray Ladd, Hillsborough Textile Company, Hillsborough, North Carolina, testified that his company is engaged in the business of knitting, dyeing, and finishing fabrics which are made from synthetic and natural fibers for use by garment manufacturers; that it requires the transportation of samples of material to be used in children's sleepwear which must be tested for its fire-retardant qualities in accordance with federal law; that these tests are performed by an independent laboratory in Raleigh; that shipper requires expeditious transportation of such samples so that test results can be obtained as quickly as possible, thereby permitting distribution of the material or its reprocessing; that it is shipper's intention to use Purolator's services five days a week, transporting fabric test samples from Hillsborough to Raleigh; that shipments weighing approximately two or three pounds will be tendered in the late afternoon and delivered early the following morning; that shipper presently uses mail service to transport these goods; and that the absence of pickup and delivery service is an inconvenience and a delay.

Wade Allen, C. C. Dixon Company, Raleigh, North Carolina, testified that his company is engaged in the wholesale distribution of heating, refrigerating, and air conditioning parts and supplies; that it requires transportation of emergency shipments of parts which are needed to make necessary repairs on customers' equipment; that such shipments originate at any of shipper's branch facilities (Raleigh, Lumberton, Rocky Mount, Greenville, Goldsboro, Morehead, Durham, Greensboro, Winston-Salem, High Point, North Wilkesboro, Gastonia, Monroe, Asheville, and Charlotte) and are sent either to another branch or directly to shipper's customers who include institutional maintenance departments and heating and air conditioning contractors

located throughout North Carolina; that it presently uses UPS, bus, and motor freight to transport these goods; that because UPS picks up only in midafternoon, it is unable to provide expeditious service for goods tendered later in the day and, in addition, has not provided next-morning delivery for the goods it does pick up; that bus is inconvenient because of the absence of pickup and delivery service and does not ship to many locations; that motor freight is used only for larger shipments; and that if the application is granted, shipper would tender approximately six to 10 shipments a week to Purolator, each shipment weighing between 25 and 30 pounds, or about 90% of the shipments it currently tenders to bus carriers.

Joe Bowling, Woodson Tenant Laboratories, Goldston, North Carolina, testified that his company is engaged in quality control analysis for feed manufacturers throughout North Carolina; that product samples (300 to 400 a week) are sent by its customers throughout the State to its laboratory in Goldston for tests to substantiate the nutrient content; that each sample shipment weighs four or five ounces; that since the company begins the analysis of feed samples early in the morning and the samples are not available from the manufacturers until late in the day, its customers require the use of a carrier capable of providing overnight service; that they currently use the mail and UPS for those samples not delivered by local manufacturers; that the nearest bus depot is 12 miles from Goldston; and that if the application is granted, 25% to 30% of the samples now received would be tendered to Purolator.

Jack L. Marshburn, City Optical Company, Wilmington, North Carolina, testified that his company is engaged in the wholesale optical prescription business - manufacturing eyeglasses and fabricating and grinding lenses for ophthalmologists, opticians, and optometrists; that its customers are located in that part of North Carolina east of Greensboro; that it probably would tender to Purolator about one shipment a day, weighing eight to 20 pounds, between its branch offices in Wilmington and Raleigh and Wilmington and Fayetteville; that shipper presently uses the transportation provided by bus between Wilmington and Fayetteville, UPS between Wilmington and Raleigh, and parcel post; that although UPS provides generally satisfactory service, it has not been able to provide delivery of some shipments as early as needed; and that shipper uses bus between Wilmington and Fayetteville and this service has proven satisfactory except for absence of door-to-door pickup and delivery.

Paul Sparks, Granite Diagnostics, Burlington, North Carolina, testified that his company manufactures prepared microbiological media and processes animal bloods for use in the clinical diagnosis of infection, serving the medical profession throughout the State of North Carolina on a daily basis; that its products are perishable outside a controlled environment and time in transit is critical; that it uses UPS primarily and mail, occasionally; that shipper presently

tenders approximately 60 to 80 shipments a day for transportation to points in North Carolina, each shipment weighing between 20 and 24 pounds; that UPS generally delivers within 48 hours to the far western portions of the State and on many occasions is not satisfactory; that bus service is expeditious, but inconvenient; that cost is a factor in choice of service; and that if the application is granted, shipper will tender 25% to 100% of its traffic within North Carolina to Purolator in order to obtain overnight transportation and next-morning delivery.

Joan Holland, Carolina Oil Equipment Company, Garner, North Carolina, testified that her company is a wholesaler of petroleum equipment including storage tanks, service station pumps, and vending equipment for self-service gasoline and requires the overnight transportation of emergency repair and replacement parts for this equipment to customers in central and eastern North Carolina; that it presently uses UPS primarily, bus transportation (four or five shipments a week), and, very rarely, parcel post; that because its scheduled pickup is in midafternoon each day, UPS is unable to meet the later demands frequently imposed upon the shipper; that bus service is inconvenient; and that if the application is granted, shipper will tender approximately 10 to 15 shipments (including all present bus shipments) a week to Purolator, each shipment weighing no more than 40 pounds.

Randell L. Rudd, Carolina Repro-Graphic, Inc., High Point, North Carolina, testified that his company designs and manufactures rubber printing dies for use on corrugated boxes; that these dies, contained in packages measuring from 60 to 120 inches in length and weighing approximately 30 pounds, are shipped to customers located in cities throughout the State, including Raleigh, Durham, Winston-Salem, Greensboro, High Point, Lexington, Salisbury, Statesville, Hickory, Charlotte, Gastonia, and Shelby; that because of the oversized nature of the shipments which shipper tenders for transportation, it has found that bus service is rarely practical and the only adequate way it can presently ship those items is by private vehicle, which is efficient but costly; that shipper requires expeditious service to meet customers' manufacturing schedules; that shipper now uses conventional trucking companies, like Overnite, for its larger shipments but they have not offered expeditious overnight service; that shipper selects the means of transportation and pays the bill; and that if the application is granted, shipper will tender to Purolator 10 to 30 shipments a week.

Fulton R. Parker, Cumberland Tractor Company, Fayetteville, North Carolina, testified that his company sells and distributes tractors and tractor equipment and parts to dealers and to the State Highway Department; that its customers are located in Greenville, Wilmington, Raleigh, Wilson, Winston-Salem, Asheboro, Clinton, Shelby, Durham, and Charlotte; that it presently tenders

approximately five or six shipments a week for transportation, each such shipment weighing less than 50 pounds, mostly for transportation by UPS or by bus; that shipper requires expeditious transportation in order to insure that its customers' equipment can be put back in operation with a minimum of delay; that UPS generally takes two to four days to complete delivery; that bus service involves additional time and expense; and that if the application is granted, shipper will tender to Purolator most of its rush orders, approximately one-half of its present bus shipments.

Sam H. Thomas, Barber Veterinarian Supply Company, Fayetteville, North Carolina, testified that his company is a wholesale distributor of veterinarian supplies and equipment, serving veterinarians throughout the State of North Carolina; that it is in need of late-afternoon pickup and early-morning delivery of the items which its customers require by a specific time; that it presently uses UPS, bus, and motor freight but none of these carriers offers the type of service proposed in the application; that UPS is unable to assure a definite arrival time; that bus service is inadequate because the absence of door-to-door transportation is inconvenient for its customers; that cost is a factor in choice of service although cost is passed on to the customer who makes the decision as to means of transportation; and that if the application is granted, shipper will tender to Purolator three to five emergency shipments a day, each weighing around 20 pounds, of the total of 10 to 15 shipped daily by bus and UPS and the 75 to 100 total daily shipments.

Michael Lewis Dixon, Young-Phillips Sales Company, Winston-Salem, North Carolina, testified that his company is engaged in the sale and distribution of graphic arts supplies, including presses, plates, and film; that its customers, located throughout the State, consist of commercial printers and photography studios; that it requires overnight transportation and early-morning delivery of items such as film for a photographer's work the next day, parts to repair presses, phototypesetting paper for newspapers, and printing plates; that it presently uses the service provided by UPS, bus, and motor freight; that he had two specific complaints about a package that did not get on a bus in time and occasionally a customer would indicate that he had not been called when a package arrived; that bus service lacks pickup and delivery and UPS does not provide late-afternoon pickup and early-morning delivery; and that if the application is granted, shipper will tender to Purolator approximately seven shipments per day, each weighing 20 to 25 pounds, of the 25 packages a day which it presently ships by bus.

The following is a summary of the testimony of the witnesses of the four protestants to the application:

Fred H. Mock, District Manager of Greyhound Lines, Inc. (Greyhound), in Raleigh, North Carolina, testified that his company is engaged in the transportation of passengers, baggage, and package express moving in the same vehicle with passengers over regular routes within the State of North Carolina; that Greyhound operates or participates in terminals at Raleigh, Fayetteville, Charlotte, Winston-Salem, Greensboro, and Goldsboro and in other areas of the State uses commission agents to sell tickets and arrange package transportation; that package shipments destined to points not served by Greyhound are interchanged with other carriers; that Greyhound will not transport packages measuring more than 60 inches in length or total girth greater than 141 inches, nor will it handle a single shipment consisting of more than five pieces; that Greyhound does not provide pickup and delivery service; that the service that Greyhound does provide is undertaken in conformance with an established time schedule with local service to every point on a designated route; that passenger baggage is given priority over package express and that express could be delayed if a bus were filled with passengers and baggage; that Greyhound needs all the package express it can get to supplement its passenger revenues; that it is correct that a shipper using Greyhound's package express service is forced to pay a portion of the cost of passenger service; and that Purolator's service would have a detrimental effect on Greyhound's package express business.

G. V. McQuinn, Assistant Controller, Greyhound Lines, Inc. (Greyhound), in Cleveland, Ohio, testified that he had participated in rate cases in North Carolina as well as in 26 other states and the District of Columbia for Greyhound and was familiar with the revenue and expense situation of Greyhound Lines - East, which basically represented everything east of the Mississippi River; that Greyhound had an operating ratio of 96.5% for the 12 months ended July 31, 1977; that he had caused an express survey to be done of the four major terminals in North Carolina for a one-week period, August 1-7, 1977; that based on shipments, intrastate shipments of 50 pounds or less amounted to 89.43% of total intrastate shipments and based on revenue, the percentage of 50 pounds or less intrastate express revenue of total intrastate express revenue was 82.07%; that on a projected basis, if Greyhound lost all of its 50-pound-and-under projected intrastate express revenue, it would have a loss of revenue in the projected period July 1, 1977, to June 30, 1978, of $298,561.88 and if it lost only 50% of that revenue, a loss of $149,280.94; that the resulting operating ratios for North Carolina intrastate in the projected July 1, 1977 - June 30, 1978, period would be 100.97% and 99.45%, respectively; that some of the revenue figures in his study represented service provided on an interline basis; and that some of the items in the study represented interstate traffic and some represented shipments weighing more than 50 pounds.

Aaron Cruise, Traffic Manager of Continental Southeastern Lines, Inc. (Continental), testified that package express is an important part of his company's operations; that Continental transports passengers, their baggage, mail, and light express over regular routes in North Carolina, South Carolina, Tennessee, and Georgia and operates terminals at Charlotte, Fayetteville, Asheville, and Gastonia; that interchanges between buses and between carriers are often necessary because of the nature of Continental's route system; that the company does not provide pickup and delivery service; that passenger revenues have declined, and express revenue has increased, due principally to rate increases, and remained about the same percentage level to total revenue in the period 1972 through 1976; and that based on a study concerning the period August 22-24, 1977, the granting of Purolator's application would result in a diversion of traffic, the express of which amounted to 986 shipments and the revenue from which equaled $2,646.90, assuming that packages weighing 50 pounds and under account for 78.9% of Continental's package express revenue and all such packages would be diverted.

R. C. O'Bryan, General Manager and Vice President of Seashore Transportation Company (Seashore) in New Bern, North Carolina, testified that his company's opposition to the application was based on the importance of 50-pound-and-under package express to its continued operations; that Seashore's basic operation is in central eastern North Carolina with most of its operations within 75 miles of New Bern and it interchanges with the other major carriers in North Carolina; that its buses have unused and available between 50% and 60% of the baggage and express area; that Seashore does not offer door-to-door express service except by contract in certain cities; that express revenue has increased every year from 1967 to 1976 except 1969 and 1974; that in 1966 Seashore had an operating ratio of 76% and in 1976 the operating ratio was 99%; that his exhibits tend to show that, if all of Seashore's intrastate 50-pound-and-under express revenue were diverted, the company would lose $191,744 based on projected express revenue for 1977 and, if only 50% of such revenue were diverted, the loss would be $95,872; that Seashore's resulting intrastate operating ratios would be 109% and 103%, respectively; that 50% diversion was a good estimate in his opinion; that these exhibits contained no adjustments to expenses; that he agreed that there is a distinction between courier service and bus service and conceded that a number of points Purolator proposes to serve are not within Seashore's territory; and that the Company's passenger operations are not self-sustaining.

John Elliott, Traffic Administrator for Carolina Coach Company (Carolina Coach), Raleigh, North Carolina, testified that his company offers numerous schedules on its regular route service in North Carolina and has available 194 buses for use in North Carolina; that the major terminals into which Carolina Coach operates are open 24 hours a day, seven

days a week, and packages can be picked up at any time; that these terminals include Raleigh, Fayetteville, Greensboro, Durham, Charlotte, and Jacksonville; and that two totally intrastate major passenger runs of the company (Raleigh - Charlotte and Raleigh - East Carolina) had an operating ratio from passenger revenue alone of 151%; that a survey conducted during June 1977 of 1/10 of the stations operated by Carolina Coach showed that 93.03% of intrastate shipments were 50 pounds or less and that 50-pounds-or-less shipments accounted for 90.50% of intrastate revenue, all of which the witness stated would be subject to diversion; that these figures include items for which Purolator already has authority; that in 1976 Carolina Coach's intrastate revenue per passenger mile was $1.06 and its expenses were $1.07 and express revenue increased the revenue $1.26; that, for the first seven months of 1977, expenses per mile and regular route passenger revenue per mile were identical at $1.11 and express revenue increased the regular route passenger and express revenue per passenger mile to $1.29; that as much as 25% to 30% of Carolina Coach's package express traffic is transferred from one bus to another before reaching its destination; and that, if a shipper requests service to a point where Carolina Coach does not have a bus station or commissioned agent, the shipment is destined to the next closest station.

Ira H. Nelson, State Operations Manager of Observer Transportation Company, Charlotte, North Carolina, testified that his company operates under Certificate C-289 and is a motor carrier of freight, exclusively; that Observer carries motion picture films, theater commodities, advertising supplies, newspapers, magazines, dated publications, and other parcels in the general freight line, has its main terminal in Charlotte, maintains a terminal in Raleigh, and operates out of trucks in various other locations throughout its authorized area in roughly the middle third of North Carolina; that Observer's primary business is the transportation of newspapers for The Charlotte Observer; that all routes pass through Charlotte; that Observer operates 18 tractors, 37 twenty-foot insulated vans, seven step vans, and 32 trailers and is open in Charlotte for pickups Monday through Friday and on Saturday until noon; that delivery starts Sunday night and runs through Thursday night for the night deliveries which are generally made when businesses are closed; that the night deliveries run 18 routes out of Charlotte each night and the day deliveries run from 12 to 16 routes per day depending upon the season and the traffic volume; that weekend service is limited to morning operations on Saturday with no pickup provided and with delivery available only on Observer's newspaper runs; that automotive parts are handled for early morning delivery as the bulk of the freight on the night runs; that Observer tries to get 85% to 90% of its shipments delivered the next day; that Observer's trucks are not operating at 100% of capacity and Observer desires additional business; that Observer's operating ratio for the six months ending June 30, 1977, was 97.7%; and Observer's freight is

interlined to someone else to deliver from Marion west in North Carolina.

Based upon the verified application, the evidence adduced at the hearing, and the entire record herein, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. That Purolator Courier Corporation is a corporation organized under the laws of the State of New York and doing business in the State of North Carolina under contract carrier authority granted by this Commission as follows:

The transportation of:

(1) Commercial papers, documents, written instruments, and interoffice communications, except coin, currency, and negotiable securities, ordinarily used by banks and banking institutions, between banks and banking institutions, and branches thereof, between all points and places within the State of North Carolina, pursuant to bilateral contracts with banks and banking institutions.

(2) Checks, business papers, records and audit and accounting media of all kinds (except plant removals), bank checks, checkbooks, drafts, and other bank stationery, pursuant to individual bilateral contracts or agreements, between all points and places within the State of North Carolina.

(3) Whole human blood and blood derivatives, over irregular routes between all points in North Carolina.

(4) Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith, over irregular routes between all points in North Carolina.

NOTE: The authorized transportation of exposed and processed film and prints does not include the transportation of motion picture film used primarily for commercial theaters and television exhibition.

(5) Group 21, critical replacement parts (excluding automobile parts) under bilateral contracts with Xerox Corporation and Terminal Communications, Inc., between all points and places within the State of North Carolina.

RESTRICTIONS: No one shipment to exceed 50 pounds, nor more than 100 pounds in the aggregate from any one consignor to any one consignee in any one day.

2. That by the instant application Purolator seeks irregular route common carrier authority to transport Group 21, Commodities as follows:

Commodity and Territory Description:

Articles, packages, and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina, except:

1. Commercial papers, documents, written instruments, and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts, and other bank stationery;

3. Whole human blood and blood derivatives;

4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith.

Definition:

Courier service is defined as the expedited door-to-door transportation of articles, packages, and commodities.

3. That type of service to be rendered if the authority requested is granted is direct door-to-door transportation, without intermediate warehousing or storage, with delivery being accomplished within 24 hours of pickup; a large percentage of the freight would be picked up after business hours and delivered the next morning.

4. That Purolator proposes to integrate common carrier operations with the contract carrier service it is currently providing in North Carolina and to utilize in its common carrier operations the same equipment which it utilizes in the contract carrier operations for which it has authority.

5. That UPS provides door-to-door pickup and delivery service throughout the State of North Carolina and Observer Transportation Company in conjunction with other carrier services likewise provides pickup and delivery service statewide. (Observer is owned by Knight Publishing Company; it transports newspapers for the Charlotte Observer.) While delivery times vary, generally UPS provides next-day service, and Observer and its interchanging companies provide same-day service in many instances within their own territory; in any event, Observer attempts to provide 24-hour service within its territory on 85% to 95% of its shipments. Observer's authority is conditioned upon that which will not impair or delay its service in the

distribution of motion picture film and other dated commodities. Twenty-one of the 25 shipper witnesses testified that they sometimes use UPS and seven said they also used other courier services, primarily to meet their routine transportation needs.

6. That bus express is being offered throughout North Carolina by the various authorized motor bus carriers - including the intervenors Carolina Coach, Continental Southeastern, Greyhound, and Seashore - through interexchange and through service. Twenty-one of the 25 shipper witnesses who testified said that they use bus express service, if available, primarily when time is an important factor in the shipment.

7. That other transportation services currently in use by the shippers who testified are United States Mail, motor freight carriers, and private vehicles.

8. That comments and objections concerning currently available service included the cost and inconvenience of delivery to and pickup from the bus station, absence of bus stations or express agents in some areas and limited nighttime station or agent hours in others, incomplete coverage of bus routes, lack of weekend service by UPS, lack of exact delivery time with UPS, cost of using private vehicle, and breakage and mishandling of shipments.

9. That none of the protesting bus carriers provides door-to-door service and the protestant freight carrier is not able to provide consistent overnight transportation and early-morning delivery of the commodities tendered to it. The only existing service really comparable to that proposed by Purolator is performed by UPS, which has not intervened in this proceeding.

10. That, according to their testimony, 16 of the shipper witnesses would use Purolator's services on an optional basis and five on a primary basis; two shippers indicated that their usage would be both optional and primary, while the remaining two had no comment.

11. That about half of the shipper witnesses testified that cost was a factor in the choice of transportation service, and about 2/3 of these testified that the customer pays all or a portion of the cost. Over half of the shipper witnesses stated that the customer makes the ultimate decision concerning mode of transportation.

12. That most of the shipper witnesses indicated that, while the largest part of their ordinary transportation needs are being adequately and satisfactorily met, there is a substantial need for expedited, door-to-door transportation by a single carrier of articles, packages, and commodities which is not being met by existing authorized service, including the contract carrier authority currently held by Purolator.

13. That all of the shipper witnesses stated that they would continue to use the services provided by the protestants, but 13 said they would divert some bus and other shipments to Purolator.

14. That each of the protestants presented testimony, financial exhibits and traffic and express studies which purported to show the potential impact of diversion of its 50-pound-and-under express revenues. For the three motor bus carrier protestants, this evidence tended to show that express revenues are subsidizing passenger operations.

15. That G.S. 62-262(e) reads as follows:

"(e) If the application is for a certificate, the burden of proof shall be upon the applicant to show to the satisfaction of the Commission:

(1) That public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

(2) That the applicant is fit, willing, and able to properly perform the proposed service, and

(3) That the applicant is solvent and financially able to furnish adequate service on a continuing basis."

16. That the Commission has implemented Rule R2-15 in connection with the above statute, said Rule being as follows:

"(a) If the application is for a certificate to operate as a common carrier, the applicant shall establish by proof (i) that a public demand and need exists for the proposed service in addition to existing authorized service, (ii) that the applicant is fit, willing and able to properly perform the proposed service, and (iii) that the applicant is solvent and financially able to furnish adequate service on a continuing basis. Uncorroborated testimony of the applicant is generally insufficient to establish public demand and need."

Whereupon, the Hearing Commissioner reaches the following

CONCLUSIONS

1. G.S. 62-262(e) and Commission Rule R2-15 are applicable to this proceeding.

2. Applicant is a corporation that is fit, willing, and able to perform the proposed service and is solvent and financially able to furnish this service on a continuing basis.

3. The evidence in this proceeding clearly shows that existing authorized motor carriers are not able to provide

the kind of expedited, small-package service which the supporting shippers need. Both the bus carriers and the single freight carrier which oppose the application are engaged in the provision of motor transportation of a kind distinct from that offered by Applicant. Each of the protestants admitted that such a distinction exists and the record clearly reveals that in both methods of operation and types of vehicles used none of the protestants offers service which is comparable to that proposed by Purolator. This conclusion is further corroborated by the instances of service failures and transportation delays encountered by the supporting shippers when utilizing existing carriers in the transportation of time-critical commodities. Applicant has clearly shown that existing motor carrier service is not adequate to meet the particular transportation needs described by the supporting shippers.

4. The evidence of record also reveals that the transportation need described by the supporting shippers extends throughout the State. In addition to naming representative points throughout the State, the shippers revealed that the very nature of their businesses require the availability of Purolator's service to virtually any point in the State at which there is located a farmer, doctor, veterinarian, mechanic, hospital, textile plant, or manufacturing company. This statewide need for service was further highlighted by the difficulties presently encountered by the shippers in using existing carriers on an interline or interchange arrangement. It is clear that direct door-to-door service, statewide, is a necessary element in the proposal presented by Purolator.

5. In addition to the evidence offered by Applicant, the Commission takes note that protestants raise serious questions about the continued viability of their operations should Purolator commence service. However, the evidence of traffic diversion does not support protestants' apprehensions. The calculations do not distinguish between existing services and those proposed by Purolator. They fail to take into account traffic which is presently being handled by common carriers but which in fact is subject to diversion by Purolator's contract carrier operations. Moreover, they fail to note the testimony of most of the supporting shippers in which they stated that existing carriers would continue to be used in the transportation of routine shipments. It follows that protestants' use of a broad category of traffic weighing 50 pounds or less as the basis of their calculated conclusions does not in itself support the claim of traffic diversion. The fact that existing carriers are now transporting commodities which the supporting shippers would tender to Purolator does not call for the conclusion that the real needs of these shippers are being adequately met. The statutory criteria for a certificate do not constitute an absolute prohibition against competition between public carriers where a public need exists. The Hearing Commissioner finds, therefore, that any competition in the transportation of packages which

Purolator may provide will not be unfair or destructive, nor endanger existing operations to the detriment of the public interest.

6. The Hearing Commissioner further finds that Applicant is solvent and financially able to furnish adequate service on a continuing basis and that it is fit, willing, and able properly to perform the proposed service.

7. That Applicant has met the burden of proof prescribed by law and, therefore, that the authority sought should be granted to become effective upon the filing of a schedule of rates and charges which are just, reasonable, and fully compensatory.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Purolator Courier Corporation for common carrier authority, as more fully described herein, be, and the same is hereby, granted in accordance with Exhibit B attached hereto and made a part hereof.

2. That the authority granted herein shall become effective upon Purolator's filing with the Commission and the Commission's approving by further Order a schedule of rates and charges which are determined to be just, reasonable, and compensatory.

3. That Purolator shall file with the Commission evidence of the required insurance and list of equipment, shall otherwise comply with the rules and regulations of the Commission, and shall institute operations under the authority granted herein within 30 days from the date upon which such authority becomes effective pursuant to Paragraph 2 above.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of February, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Docket No. T-1077, Sub 14

Purolator Courier Corporation
3333 New Hyde Park Road
New Hyde Park, New York 11040

EXHIBIT B

Irregular Route Common Carrier Authority

Commodity and Territory Description:

Articles, packages, and all commodities moving in courier service as hereinafter defined between all

points and places in North Carolina, except:

1. Commercial papers, documents, written instruments, and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts, and other bank stationery;

3. Whole human blood and blood derivatives;

4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith.

Definition:

Courier service is defined as the expedited door-to-door transportation of articles, packages, and commodities.

Restrictions:

(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than one hundred (100) pounds from one consignor at one location to one consignee at one location in any one day.

DOCKET NO. T-1077, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Purolator Courier Corporation, 3333 New Hyde Park Road, New Hyde Park, New York 11040 - Application for Authority to Transport Group 21, Articles, Packages, and All Commodities Moving in Courier Service, with Certain Exceptions, Statewide) FINAL ORDER

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on May 9, 1978

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Ben E. Roney, Leigh H. Hammond, Robert Fischbach, John W. Winters, and Edward B. Hipp

APPEARANCES:

For the Applicant:

John V. Hunter III, Hunter & Wharton, Attorneys at Law, P.O. Box 448, Raleigh, North Carolina 27602
For: Purolator Courier Corporation

Peter A. Greene, Caldwell & Greene, Attorneys at Law, 900 17th Street N.W., Washington, D.C. 20006
For: Purolator Courier Corporation

Rudy Yessin, Attorney at Law, P.O. Box B, Frankfort, Kentucky 40602
For: Purolator Courier Corporation

John M. Delany, General Counsel, Purolator Courier Corporation, 3333 New Hyde Park Road, New Hyde Park, New York 11040

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Greyhound Lines, Inc., and Observer Transportation Company

Henry S. Manning, Jr., Joyner & Howison, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602
For: Continental Southeastern Lines, Inc., and Carolina Coach Company

Edward S. Finley, Jr., Joyner & Howison, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602
For: Continental Southeastern Lines, Inc., and Carolina Coach Company

David L. Ward, Jr., Ward & Smith, P.A., Attorneys at Law, 310 Broad Street, New Bern, North Carolina 28560
For: Seashore Transportation Company

For the Public Staff:

Theodore C. Brown, Jr., North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On April 29, 1977, Purolator Courier Corporation (hereinafter referred to as Purolator or the Applicant) filed an application seeking irregular motor common carrier authority as follows:

"Commodity and Territory Description:

Articles, packages, and all commodities moving in courier service as hereinafter defined between all points and places in North Carolina, except:

1. Commercial papers, documents, written instruments, and interoffice communications ordinarily used by banks and banking institutions between banks and banking institutions and branches thereof;

2. Checks, business papers, records and audit and accounting media of all kinds, bank checks, checkbooks, drafts, and other bank stationery;

3. Whole human blood and blood derivatives;

4. Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith.

Definition:

Courier service is defined as the expedited door-to-door transportation of articles, packages and commodities.

Restrictions:

(1) No service will be rendered in the transportation of any package or article weighing more than fifty (50) pounds.

(2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than one hundred (100) pounds from one consignor at one location to one consignee at one location in any one day."

Notice of the application was published in the Commission's Calendar of Hearings issued May 18, 1977, and a public hearing thereon was scheduled to begin on June 28, 1977. By Motion filed June 10, 1977, Purolator requested a postponement and continuance. By Order of June 15, 1977, the Commission continued the hearing to September 13, 1977.

Protests and Motions for Intervention in this proceeding were filed by Observer Transportation Company, Greyhound Lines, Inc., Continental Southeastern Lines, Inc., Carolina Coach Company, Seashore Transportation Company, and the Public Staff - North Carolina Utilities Commission, each being allowed by subsequent Order.

The matter came on for hearing as scheduled before Commissioner Sarah Lindsay Tate. All parties were present and represented by counsel.

On November 28, 1977, the parties filed proposed orders and briefs in the matter, and on February 3, 1978, a Recommended Order was issued granting the authority sought.

Exceptions to the Recommended Order and requests for oral argument were filed by the Protestants and the Public Staff on February 20, and March 10, 1978, respectively.

On April 25, 1978, the Commission issued an Order setting the exceptions to the Recommended Order for oral argument on May 9, 1978. All parties were represented by counsel as named above.

Upon review of the entire record in this docket, the transcript of the hearings, the Recommended Order of February 3, 1978, the exceptions thereto and the arguments of counsel at the further hearing thereon, the Commission adopts the Findings of Fact and Conclusions set forth in the Recommended Order and makes the following additional Findings and Conclusions:

1. That the witnesses who testified in support of the instant application are representative of a significant segment of the shipping public whose convenience and necessity require expedited door-to-door transportation of articles, packages, and commodities with no one shipment exceeding 50 pounds nor more than 100 pounds in the aggregate from any one consignor to any one consignee in any one day.

2. That the consuming public in general will benefit from the availability of such additional transportation service to commercial shippers within the State.

3. That the entry of Purolator and its proposed service into the transportation field in North Carolina does not constitute a threat of destructive competition to existing carriers by virtue of diversion of certain express traffic.

4. That potential losses of bus express revenues and the effect of such losses on passenger revenues and fares are too speculative to override the public convenience and necessity which require the proposed service in addition to existing authorized transportation service including the contract carrier authority currently held by the Applicant.

5. That the Protestants' Exceptions Nos. 1 - 33 should be overruled.

6. That the Public Staff's Exceptions Nos. 1 - 15 should be overruled.

7. That the Recommended Order Granting Common Carrier Authority in this docket should be affirmed in its entirety.

IT IS, THEREFORE, ORDERED as follows:

1. That Exceptions Nos. 1 - 33 filed February 20, 1978, by counsel for and on behalf of Protestants Carolina Coach Company, Continental Southeastern Lines, Inc., Greyhound Lines, Inc., Seashore Transportation Company, and Observer Transportation Company are hereby overruled.

2. That Exceptions Nos. 1 - 15 filed March 10, 1978, by counsel for and on behalf of the Public Staff are hereby overruled.

3. That the Recommended Order Granting Common Carrier Authority dated February 3, 1978, is hereby affirmed in its entirety.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-1893

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Nelson Edward Spurlin, Route 1, Grover, North Carolina 28073 - Application for Authority to Transport Group 21, Mobile Homes	))))	RECOMMENDED ORDER GRANTING APPLICATION IN PART

HEARD IN: Courtroom No. 3, Cleveland County Law Enforcement Center, Shelby, North Carolina on March 24, 1978, at 9:30 a.m.

BEFORE: Hearing Examiner Maurice W. Horne

APPEARANCES:

For the Applicant:

Nelson Edward Spurlin, Route 1, Grover, North Carolina
For: Himself

For the Protestants:

Thomas S. Harrington, Harrington, Stultz and Maddrey, P. O. Box 535, Eden, North Carolina 27288
For: Morgan Drive Away, Inc.

Dan Lynn, 5 Carolina Bank Building, P. O. Box 333, Cary, North Carolina 27511
For: Cooper's Mobilehomes Moving Service, Inc.

HORNE, HEARING EXAMINER: On December 5, 1977, an application was filed with the Commission by Nelson Edward Spurlin, Route 1, Grover, North Carolina 28073, requesting authority to operate in North Carolina intrastate commerce as a motor common carrier transporting the following:

"Group 21, Mobile Homes: (1) Between points in the counties of Rutherford, Cleveland, Lincoln, Gaston, Mecklenburg; (2) From points in counties of Rutherford, Cleveland, Lincoln, Gaston, Mecklenburg, to all points in North Carolina; (3) From all points in North Carolina to counties of Rutherford, Cleveland, Lincoln, Gaston, Mecklenburg."

Notice of the application reflecting a description of the authority sought was published in the Commission's Calendar of Hearings issued January 5, 1978 and the matter was set for hearing March 10, 1978 at 9:30 a.m. in the Commission's Hearing Room, Dobbs Building, Raleigh, North Carolina.

Pursuant to a letter request filed by the Applicant, treated as a Motion, the Commission on January 20, 1978 continued the hearing and changed the location at the Applicant's request to begin at 9:30 a.m., March 10, 1978, in Shelby, North Carolina for the convenience of his witnesses.

On February 22, 1978, protest and motion for intervention were filed by Morgan Drive Away, Inc., through counsel, and intervention was allowed by Commission Order of February 23, 1978.

On February 24, 1978, protest and motion for intervention were filed by Cooper's Mobilehomes Moving Service, Inc., through counsel, and intervention was allowed by the Commission's Order of March 1, 1978.

Upon the call of the matter for hearing in Shelby, North Carolina, in Courtroom No. 3, Cleveland County Law Enforcement Center, the Examiner inquired whether or not the Applicant was represented by counsel. The Examiner explained that it was unnecessary for the Applicant to have counsel since he was applying as an individual for authority and thereupon explained the procedure for issuance of recommended orders and for the conduct of the hearing.

The Applicant offered testimony in addition to his verified application regarding his qualifications, business experience, and financial ability to perform the transportation service proposed by the authority requested in the application. Mr. Spurlin indicated that he is interested in making "local" moves of mobile homes in the area; that he has had a number of persons request that he make such moves "most of them ... in Cleveland" County. He indicated that at the present time he has all of the equipment which he needs which consists of one International Tractor. The verified application indicates assets of $28,800 and liabilities of $20,000.

Mr. H. E. Ledford testified in support of the application. He indicated that he lives at Route 1, Shelby, and that he owns a mobile home park on North on New Prospect Church Road, about six miles from Shelby and one on Highway 150 near Waco. He also stated that he has an interest in a mobile home park below Shelby near Pleasant Hill Church on Highway 226. Mr. Ledford testified that all three of the mobile home parks are located in Cleveland County. He testified that Mr. Huss in Sherwood used to pull mobile homes and that he had used his services part of the time but that he was unable to acquire his services any longer. He indicated Mr. Spurlin was the only man he knew of closer than Gastonia that he could get to move mobile homes. He indicated that he moves approximately 25 to 30 mobile homes within a year and that he has been in the mobile home park business since 1968. He stated that Mr. Spurlin is capable of moving mobile homes. On cross-examination, Mr. Ledford indicated that Mr. Spurlin had moved seven or eight homes this year. Some of them were his and some of them were for other people. Mr. Huss, to whom he had referred, was no longer in business. He further indicated that Mr. Spurlin has a man helping him who owns his own pickup truck.

Mr. Jack Borders, Route 9, Shelby, testified in support of the application. He stated that he drives a tractor trailer and sets up house trailers and does service work on house trailers part time and that he has helped Mr. Spurlin set up mobile homes. He indicated that he drives a pickup to lead him and hauls blocks or whatever he needs to set up and anchor down the trailers and hook up the water and sewer

services. He testified that he has performed these services for about eight and one-half years for other persons and that he proposed to help Mr. Spurlin under the authority requested and provide whatever services he would need. He stated he personally had received three or four calls a month for people who wanted to move mobile homes and that there is a need for the movement of mobile homes in and around Shelby.

At the conclusion of the presentation of evidence and witnesses by the Applicant, the Protestants moved to dismiss the application. The Motions were denied.

The protestant, Morgan Drive Away, offered the testimony of Mr. Allan Hughes, 6713 Somerset Drive, Charlotte, North Carolina, who is District Manager for Morgan Drive Away, Inc. As District Manager, he indicated that his services include contacting prospective contractors, terminal people, solicitation of business in the areas and keeping up with the service of the company. He stated that he does from time to time travel in and about Cleveland County and that Morgan has contractors within an hour and a half or two hours drive and that there are three contractors within 25 to 30 minutes of Shelby. He further stated that Morgan holds itself out to serve in the areas proposed to be served by the applicant by listings in the yellow pages with toll-free numbers to Charlotte and that the company generally can provide services within one day's notice, with a maximum of two days, which time would be applicable to moves in and out of Cleveland County. He indicated that the company does provide setting up services as well as transportation and that the company would accept the business in the area proposed if it were offered.

Upon questions from the Examiner, Mr. Hughes indicated that the company had made nine to eleven moves in the Cleveland County area but that some of these movements were made by Mr. Spurlin while he was under lease to Morgan and that four Shelby locals were in the immediate area of Shelby and one of them was just a short local move within a park area. He stated that Mr. Spurlin had been on lease with Morgan for approximately a year and a half and ceased his operations with Morgan in September of 1977.

Protestant Cooper's Mobilehomes Service, Inc. presented the testimony of Matthew W. Cooper who testified regarding the equipment which the company has for moving mobile homes. He indicated that Cooper's is willing to move mobile homes in the Cleveland County area if the company were called to do so. He stated that he did not know how many homes his company had moved in the Cleveland County area within the past year and that the company always has more room for business. He indicated that the company could move mobile homes in the area on a one or two-day notice.

At the conclusion of all the evidence, the Protestants renewed the Motion to Dismiss. Upon consideration of the

evidence presented, the Examiner allowed the Motion, in part, as it pertains to Rutherford, Lincoln, Gaston and Mecklenburg Counties but reserved any ruling on the Motion with respect to Cleveland County until after a further review of the evidence.

Based upon the verified application and the evidence taken at the hearing herein, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the Applicant, Nelson Edward Spurlin, is fit, willing, and otherwise able to properly perform the proposed service under authority sought herein to transport mobile homes.

2. That the Applicant is solvent and financially able to acquire the authority sought and to furnish adequate service on a continuing basis.

3. That the Applicant has not shown that the public convenience and necessity require the proposed service in the counties of Rutherford, Lincoln, Gaston, and Mecklenburg.

4. That the Applicant has shown that there is a public need for service within Cleveland County to transport mobile homes.

5. That Morgan Drive Away, Inc. and Cooper's Mobilehomes Moving Service, Inc. hold common carrier authority for the transportation of mobile homes statewide.

6. That the proposed operations appear to involve short distance moves within Cleveland County, some within a mobile home park and, therefore, would be local in nature.

7. That the operations proposed by the Applicant within Cleveland County would not unreasonably impair the operations of existing carriers contrary to the public interest.

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

CONCLUSIONS

Upon consideration of the evidence of record, the Examiner concludes that the Applicant has not shown that the public convenience and necessity require the proposed transportation of mobile homes by the Applicant in the counties of Rutherford, Lincoln, Gaston, and Mecklenburg. There simply was no evidence presented that would indicate any need for such service in these areas.

With respect to Cleveland County, the evidence indicates a public need for the transportation of mobile homes by the Applicant within the County of Cleveland. This conclusion results primarily from the testimony of Mr. Ledford who testified that there is a need for essentially local moves within Cleveland County and some even within a mobile home park such as those which he owns.

Accordingly, the Applicant has carried the burden of proving a need for the proposed service only within Cleveland County and, therefore, the Examiner concludes that the application should be allowed only with respect to moves within Cleveland County and dismissed as to all other requested areas.

The verified application and other evidence tend to indicate that the Applicant is fit, willing, and financially and otherwise able to provide service within Cleveland County.

IT IS, THEREFORE, ORDERED as follows:

1. That Nelson Edward Spurlin, Route 1, Grover, North Carolina 28073, be, and the same hereby is, granted a common carrier certificate in accordance with Exhibit B attached hereto and made a part hereof.

2. That Nelson Edward Spurlin shall file with the Commission evidence of the required insurance, list of equipment, tariff of rates and charges, designation of process agent, and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty days from the date that this Order becomes final.

3. That the Applicant will 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 in the books and records, and can be utilized by the Applicant in the preparation of said annual report.

ISSUED BY ORDER OF THE COMMISSION.
This 27th day of April, 1978.

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

DOCKET NO. T-1893 Nelson Edward Spurlin
Route 1
Grover, North Carolina 28073

EXHIBIT B IRREGULAR ROUTE COMMON CARRIER
Group 21: Transportation of Mobile Homes within Cleveland County, North Carolina.

DOCKET NO. T-1832, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Allen Realty Company, Inc., P.O. Box 775, Southern Pines, North Carolina, Application for Authority to Transport Group 21, Mobile Homes) FINAL ORDER

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on August 4, 1978

BEFORE: Commissioner Edward B. Hipp, Presiding, and Commissioners Robert Fischbach, Sarah Lindsay Tate, and John W. Winters

APPEARANCES:

For the Applicant:

William B. Crumpler, Van Camp, Gill & Crumpler, P.A., Attorneys at Law, P.O. Box 106, Raleigh, North Carolina 27602

For the Protestants:

Thomas S. Harrington, Harrington, Stultz & Maddrey, P.O. Box 535, Eden, North Carolina 27288
For: Morgan Drive Away, Inc.

Ronald Lines Perkinson, Staton, Betts, Perkinson & West, P.A., P.O. Box 1320, Sanford, North Carolina 27330
For: Boyd W. Brafford, Jr.

BY THE COMMISSION: By application filed March 31, 1977, Allen Realty Company, Inc., sought to amend its existing Certificate No. C-1041. The present territorial area covered in this certificate is between all points and places within the counties of Moore and Hoke. The applicant now seeks irregular common carrier authority to transport Group 21, mobile homes as follows:

(1) Between all points and places within the Counties of Moore, Hoke, Montgomery, Stanly, Richmond, Harnett, Lee, and Randolph;

(2) From all points and places within the Counties of Moore, Hoke, Montgomery, Stanly, Richmond, Harnett, Lee, and Randolph to any point or place within the State of North Carolina; and

(3) From any point or place within the State of North Carolina to any points or places within the Counties

of Moore, Hoke, Montgomery, Stanly, Richmond, Harnett, Lee, and Randolph.

The matter came on for hearing on August 18, 1977, before Hearing Examiner Antoinette Wike, in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The applicant was represented by attorneys James R. Van Camp and Douglas R. Gill of Southern Pines, North Carolina. Protestant Morgan Drive Away, Inc., was represented by attorney Thomas S. Harrington of Eden, North Carolina, and Protestant Boyd W. Brafford, Jr., was represented by Ronald Limes Perkinson of Sanford, North Carolina.

Following the initial hearing in this matter, Examiner Wike filed a Recommended Order on December 14, 1977, granting the proposed service between points and places within Stanly and Montgomery Counties, in addition to existing authorized service, and denying all other proposed amendments. exceptions were filed by counsel for the applicant in apt time on March 13, 1978, to the Recommended Order herein entered in this proceeding. By Order issued May 4, 1978, the commission set this matter for oral argument at the time and place set out in the caption, at which time the parties were present. and represented by counsel as captioned.

Upon consideration of all the evidence herein, the Recommended Order of the Hearing Examiner, the exceptions filed thereto, and the able argument of counsel, the Commission is of the opinion and makes the following

FINDINGS OF FACT

1. That the applicant owns the necessary equipment for the movement and transportation of Group 21, Mobile Homes: (1) between all points and places within the Counties of Moore, Hoke, Montgomery, and Stanly; (2) from all points and places within the Counties of Moore, Hoke, Montgomery, and Stanly to any point or place within the State of North Carolina; and (3) from any point or place within the State of North Carolina to any points or places within the Counties of Moore, Hoke, Montgomery, and Stanly.

2. That the applicant, its officers and employees are experienced in the movement of Group 21, Mobile Homes for which authority is herein sought, having had years of successful experience in the movement of same between points and places within the Counties of Moore and Hoke.

3. That several witnesses presented convincing evidence of need for an additional authorized common carrier of Group 21, Mobile Homes in the territorial area proposed to be covered by the applicant. In further support of the application, witnesses testified to the good reputation and efficiency of the applicant and indicated desire to use applicant's services.

4. That the applicant is fit, willing, and able to provide the proposed services.

5. That the applicant is solvent and financially able to provide the proposed services.

6. That the Protestants, Morgan Drive Away, Inc., and Boyd W. Brafford also hold irregular route common carrier authority to transport mobile homes in the area described in the application with the exception of Richmond County where only Morgan Drive Away, Inc., holds authority.

7. That the public convenience and necessity requires the proposed services in addition to existing authorized service in the Counties of Moore, Hoke, Montgomery, and Stanly.

8. That the public convenience and necessity does not require the proposed services in addition to existing authorized service in the Counties of Richmond, Harnett, Lee, and Randolph.

Whereupon, the Commission reaches the following

CONCLUSIONS

Based upon the evidence presented, the records as a whole, and the foregoing Findings of Fact, the proposed amendment to Certificate No. C-1041 is in the public interest to the extent that it adds to its existing authority the Counties of Montgomery and Stanly and includes transportation from all points and places in the Counties of Moore, Hoke, Montgomery, and Stanly to any place within the State of North Carolina and from any point or place within the State of North Carolina to the four said counties. That such amendment will not unlawfully affect the service to the public by other certified common carriers, that the applicant is fit, willing, and able to perform the services indicated; thus the provisions of the Recommended Order which are in conflict with this Order are in error and should be reversed.

IT IS, THEREFORE, ORDERED as follows:

1. That the Exceptions of the Applicant Allen Realty Company, Inc., to the Recommended Order herein of December 14, 1977, which are consistent with the findings and conclusions herein, and particularly Exceptions No. 9 and No. 10, relating to extension of applicant's certificate to and from points in North Carolina, are hereby allowed.

2. That the Exceptions of the Protestant Morgan Drive Away, Inc., which are inconsistent with this Order are overruled, and Exception No. 7 of the Applicant Allen Realty Company, Inc., relating to the Counties of Richmond, Harnett, Lee, and Randolph are hereby overruled.

3. That the provisions of the Recommended Order in conflict with this Order are herein reversed.

4. That the application of Allen Realty Company, Inc., to amend Certificate No. C-1041, be and the same is hereby revised as described in Exhibit B (amended) and attached hereto and made a part hereof.

5. That the Applicant file with the Commission evidence of the required insurance, lists of equipment, tariff of rates and charges, and designation of process agent, and otherwise comply with the rules and regulations of the Commission, and institute operations under the authority herein acquired within thirty (30) days from the date of this Order.

6. That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed annual report to the Commission can be readily identified from the books and records, and can be utilized by the Applicant in the preparation of said annual report. A copy of the annual report form shall be furnished to the Applicant upon request to the Accounting Department.

7. That unless Applicant complies with the requirements set forth in Decretal Paragraph 5. above and begins operations, as authorized, within a period of thirty (30) days after the date of this Order, 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 21st day of September, 1978.

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

DOCKET NO. T-1832, SUB 1

Allen Realty Company, Inc.
P.O. Box 775
Southern Pines, North Carolina

EXHIBIT B (amended)

Irregular Route Common Carrier Authority

(1) Between all points and places within the Counties of Moore, Hoke, Montgomery, and Stanly;

(2) From all points and places within the Counties of Moore, Hoke, Montgomery, and Stanly to any point or place within the State of North Carolina; and

(3) From any point or place within the State of North Carolina to

any points or places within the Counties of Moore, Hoke, Montgomery, and Stanly.

DOCKET NO. T-26, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Anderson Truck Line, Inc., Lenoir, North Carolina - Application for Authority to Amend Certificate No. C-66) FINAL ORDER

HEARD IN: The Hearing Room of the Commission, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, October 20, 1978, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding, and Commissioners Leigh H. Hammond, Robert Fischbach and John W. Winters

APPEARANCES:

For the Applicant:

Thomas R. Eller, Jr., Attorney at Law, P.O. Box 27866, Raleigh, North Carolina 27611

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Valley Transfer, Inc., DeHart Motor Lines, Inc., Caldwell Freight Lines, Inc., Wall Trucking Company, Inc., and Central Transport, Inc.

Vaughan S. Winborne, Counsellor and Attorney at Law, 1108 Capital Club Building, Raleigh, North Carolina 27601
For: Tarheel Express, Inc.

BY THE COMMISSION: On April 26, 1978, a Recommended Order was entered in this docket by Hearing Examiner Antoinette R. Wike denying the application filed with the Commission on behalf of Anderson Truck Line, Inc., hereinafter referred to as Applicant, and revoking the temporary operating authority granted Applicant by Order dated January 23, 1978, authorizing the transportation of Group 16, furniture and materials and supplies used in the manufacture of same, over irregular routes between the plantsite and facilities of The Formica Corporation located at Tarboro, North Carolina, and the Broyhill Furniture

Industries, Inc., Occasional Plants #2 and #3 located at Lenoir, North Carolina.

By Order in this docket dated May 24, 1978, the Commission assigned the Exceptions filed by Applicant on May 12, 1978, for oral argument on July 28, 1978, and denied the Motion to Dismiss Exceptions by certain Protestants as filed on May 18, 1978.

Subsequent to the oral arguments on exceptions noted above, the Commission entered a Final Order on August 25, 1978, reversing the Recommended Order of Examiner Wike of April 26, 1978; approving the application; and amending Common Carrier Certificate No. C-66 of the Applicant in accordance with Exhibit B to said Order to be as follows:

> "Transportation of furniture and materials and supplies used in the manufacture of same, Group 16, over irregular routes between points and places in the counties of: Alamance, Buncombe, Cabarrus, Caldwell, Catawba, Cherokee, Cleveland, Cumberland, Davidson, Davie, Durham, Edgecombe, Forsyth, Gaston, Guilford, Granville, Harnett, Haywood, Henderson, Iredell, Jackson, Lenoir, Lincoln, Macon, Mecklenburg, Richmond, Robeson, Rowan, Rutherford, Transylvania, Vance, Wake, Wayne, and Wilkes."

On September 22, 1978, Counsel on behalf of all of the Protestants herein filed a Motion for Extension of Time to File Notice of Appeal and Exceptions and Request for Oral Argument and by Order dated September 25, 1978, Protestants were granted an extension of time to file notice of appeal to and including October 25, 1978.

On October 4, 1978, an Order, as subsequently amended, was entered by the Commission amending Exhibit B of the Commission's Final Order of August 25, 1978, to read as follows:

> "Transportation of furniture and materials and supplies used in the manufacture of same, over irregular routes, between all points and places in Edgecombe and Caldwell Counties."

and assigned the oral argument on Exceptions for hearing on October 20, 1978.

Upon call of the matter for hearing at the time and place noted above, Counsel on behalf of both Applicant and Protestants were present and offered oral arguments.

Upon a review of the entire record in this proceeding, including the Exceptions to the Commission's Final Order, and after careful consideration of the able arguments of Counsel on behalf of the involved parties, and of the Commission's official files in this docket, the Commission makes the following:

FINDINGS OF FACT

(1) That the Applicant, Anderson Truck Line, Inc., filed an application with the Commission on November 21, 1977, to amend a portion of its Certificate No. C-66, which reads:

> Transportation of furniture and materials and supplies used in the manufacture of same, over irregular routes from Lenoir, North Wilkesboro, and Newton, North Carolina, to points and places within the following counties: Cherokee, Macon, Jackson, Transylvania, Haywood, Caldwell, Catawba, Lincoln, Cleveland, Gaston, Mecklenburg, Forsyth, Guilford, Durham, Wake, Wayne, Lenoir, Buncombe, Henderson, Rutherford, Iredell, Cabarrus, Davie, Rowan, Davidson, Alamance, Richmond, Robeson, Cumberland, Harnett, Granville, and Vance.

to read as follows:

> "Transportation of furniture and materials and supplies used in the manufacture of same, Group 16, over irregular routes between points and places in the counties of: Alamance, Buncombe, Cabarrus, Caldwell, Catawba, Cherokee, Cleveland, Cumberland, Davidson, Davie, Durham, Edgecombe, Forsyth, Gaston, Guilford, Granville, Harnett, Haywood, Henderson, Iredell, Jackson, Lenoir, Lincoln, Macon, Mecklenburg, Richmond, Robeson, Rowan, Rutherford, Transylvania, Vance, Wake, Wayne, and Wilkes."

(2) That on January 25, 1978, a Limiting Amendment was filed on behalf of Applicant to amend its application in this docket to seek operating authority as follows:

> "Transportation of furniture and materials and supplies used in the maufacture of same, over irregular routes, between all points and places in Edgecombe and Caldwell Counties."

and was allowed by the Hearing Examiner at the hearing on February 10, 1978.

(3) That based upon the Limiting Amendment herein, Caldwell Freight Lines, Inc., and Wall Trucking Company, Inc., were allowed to withdraw their protests in this proceeding.

(4) That a stipulation was entered into between the parties herein whereby Applicant does not seek to engage in the transportation of commodities in bulk, in tank vehicles, and based thereon, Central Transport, Inc., was also allowed to withdraw its protest in this docket.

(5) That the Applicant is engaged in the transportation of certain commodities for the account of Broyhill Furniture Industries, Inc., Lenoir, North Carolina, in interstate commerce being the transportation of furniture on outbound

shipments and materials and supplies used in the manufacture of furniture on inbound shipments.

(6) That in the past, Broyhill Furniture Industries, Inc., was obtaining certain materials and supplies used in the manufacture of furniture from a concern located in Norcross, Georgia, and is in the process of phasing out such supplier and obtaining similar materials from a concern located in Edgecombe County, North Carolina.

(7) That the Applicant was engaged in the interstate transportation of certain furniture materials and supplies from the Norcross, Georgia, facility to the plants of Broyhill Furniture Industries, Inc., located in Caldwell County, North Carolina.

(8) That the Applicant has sufficient equipment available and drivers experienced in for-hire motor carrier operations in order to provide the transportation service sought herein.

(9) That Broyhill Furniture Industries, Inc., has a need to have certain materials and supplies used in the manufacture of furniture shipped to its facilities in Caldwell County from Edgecombe County and, also, that it may have occasion to have such commodities transported from points in Caldwell County to points in Edgecombe County.

(10) That the prompt delivery of furniture materials and supplies to the facilities of Broyhill Furniture Industries, Inc., is mandatory due to its computerized system of maintaining sufficient supplies and of its limited storage capacity.

Based upon the aforesaid Findings of Fact, the Commission makes the following:

CONCLUSIONS

(1) That a public demand and need exists for the transportation of materials and supplies used in the manufacture of furniture except those in bulk, in tank vehicles, between points and places in Edgecombe County on the one hand, and points and places in Caldwell County, on the other hand, in addition to existing authorized transportation services.

(2) That the Applicant, Anderson Truck Line, Inc., is fit, willing, and able both financially and otherwise to provide the transportation service sought herein.

(3) That Anderson Truck Line, Inc., is solvent and financially able to furnish service of the nature applied for herein on a continuing basis.

The Commission concludes that the Applicant has borne the burden of proof required by Statute for the issuance of a

certificate of authority as hereinafter set forth in Exhibit B attached hereto.

In reaching these Conclusions, the Commission has considered the Exceptions 1 through 11 filed by the Protestants on September 22, 1978, and except as this Order amends and modifies the Final Order of August 25, 1978, the Exceptions are denied.

IT IS, THEREFORE, ORDERED:

(1) That the Final Order of the Commission entered on August 25, 1978, as subsequently amended on October 4, 1978, be, and the same is hereby, amended as set forth herein.

(2) That Anderson Truck Line, Inc., be, and the same is hereby, granted common carrier authority as set forth and described in Exhibit B attached hereto and made a part hereof.

(3) That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed annual report to the Commission can be readily identified from the books and records, and can be utilized by the Applicant in the preparation of said annual report. A copy of the annual report form shall be furnished to the Applicant upon request to the Accounting Division.

(4) That Anderson Truck Line, Inc., file with the Commission evidence of insurance, list of equipment, tariffs of rates and charges, and designation of process agent to the extent it has not already done so and otherwise comply with the rules and regulations of the Commission prior to conducting operations under the authority acquired herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of December, 1978.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sandra J. Webster, Chief Clerk

Commissioner Hipp did not participate.

DOCKET NO. T-26, SUB 2 — ANDERSON TRUCK LINE, INC. LENOIR, NORTH CAROLINA

IRREGULAR ROUTE COMMON CARRIER

EXHIBIT B — Transportation of materials and supplies used in the manufacture of furniture, except those in bulk, in tank vehicles, between all points and places in Edgecombe County on the one hand, and all points and places in Caldwell County, on the other hand.

DOCKET NO. T-521, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Harper Trucking Company, Inc., 300 Hoke Street, Raleigh, North Carolina 27602 - Petition to Amend Certificate/Permit No. CP-38 by Substituting Contracting Shippers	) RECOMMENDED ORDER GRANTING) PETITION AND REQUIRING) CARRIER TO COMPLY WITH) COMMISSION'S RULES AND) REGULATIONS

HEARD IN: The Hearing Room of the Commission, 430 North Salisbury Street, Raleigh, North Carolina, on October 4, 1977

BEFORE: Commissioner Leigh H. Hammond, Presiding, and Commissioners Tenney I. Deane* and Ben E. Roney

APPEARANCES:

For the Respondent:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27602
For: Harper Trucking Company, Inc. Thomas O. Harper and Nancy M. Harper

For the Intervenors:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 1406, Raleigh, North Carolina 27602
For: Observer Transportation Company, Inc.
Mid-State Delivery Service, Inc.

Paul F. Lassiter, Assistant Commission Attorney Public Staff - North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina 27603
For: Using and Consuming Public

BY THE COMMISSION: This proceeding arose upon the issuance by the Commission of an Order dated June 24, 1977, whereby an investigation was instituted into and concerning the lawfulness of the conduct of Harper Trucking Company, Inc. (Harper), operating as a common and contract carrier in North Carolina intrastate commerce under authorities issued to it by the Commission as set forth in Common and Contract Carrier Certificate/Permit No. CP-38.

The investigation included but was not limited to (a) Harper's right to substitute contracts; (b) Harper's operation as a common carrier in regard to certain weight limitations; and (c) Harper's failure to comply with Rules and Regulations of the Commission and the Commission's Order

in Docket No. T-825, Sub 209, dated September 20, 1976. Thomas O. Harper and Nancy M. Harper were made Respondents with hearing in the matter being set for September 7, 1977.

The Public Staff of the Commission filed Notice of Intervention on July 26, 1977, and on July 27, 1977, the Commission issued its Order recognizing such Intervention. Mid-State Delivery Service, Inc. (Mid-State), and Observer Transportation Company, Inc. (Observer), on August 16, 1977, filed through counsel a Petition for Leave to Intervene and by Order dated August 23, 1977, the Commission allowed intervention by these carriers.

The proceeding in Docket No. T-825, Sub 209, involved a tariff filing by Harper containing increases in rates and charges. The Commission, by its Order in that docket dated September 20, 1976, allowed the increased rates and charges to become effective provided Harper would take such steps and measures as necessary to bring its accounts and records into full compliance with the Commission's Rules and Regulations within 60 days from the date of the Order. In addition, the Commission ordered Harper to implement immediately accounting methods and procedures and exercise such practices as are necessary to maintain compliance with the Commission's Rules and Regulations in all respects. After 60 days and beginning in January 1977, an investigation of Harper's records was initiated. This investigation revealed that Harper had not complied with the Commission's Order in Docket No. T-825, Sub 209, dated September 20, 1976; that Harper was consistently transporting small parcels weighing less than 5,000 pounds or 10,000 pounds in apparent violation of a portion of its authority; and that Harper, in the opinion of the Public Staff, was in violation of the Commission's rules by performing services in territories beyond the scope of its authority.

Following the Staff's investigation, a Petition was filed for and on behalf of Harper seeking authority to amend its Certificate/Permit No. CP-38 by the substitution of contracts with W. H. King Drug Company, Inc., and General Medical Corporation in lieu of contracts with ICN Pharmaceuticals, Inc., Raleigh, North Carolina, and Raleigh Surgical Supply Company, Raleigh, North Carolina. By Order in this docket dated June 16, 1977, said Petition was granted on an interim basis pending further action by the Commission.

Upon request of counsel for Respondent, the Commission, by its Order dated August 12, 1977, continued the hearing in this matter scheduled for September 7, 1977, until October 4, 1977.

On October 4, 1977, counsel for Respondent filed a series of stipulations with the Commission wherein it agreed that its books and records had not been kept in compliance with the Commission's Rules and Regulations as required by the

Commission's Order dated September 20, 1976. Harper further agreed to correct said violations by implementing the following procedures and reporting measures:

(a) Harper will convert its books to the accrual method of accounting beginning on July 1, 1977. This conversion is to take place by October 1, 1977;

(b) Harper will set up and maintain accounts receivable and accounts payable ledgers which Harper will post at least monthly to the appropriate accounts in the general ledger. Harper will complete this change by October 1, 1977;

(c) Harper will separate, for accounting purposes, revenues between contract and common carrier operations. The Company has already made this change in its procedures;

(d) Harper will assign invoice numbers or freight bill numbers on bank clearing house accounts (Dillard Paper Company forms) and this assignment of numbers will be consistent with the Company's other account numbers. The Company will implement this change immediately;

(e) Harper will set up and maintain a current formal damage claim file together with all supporting documents that have been properly approved that show full disposition of these claims. The Company will implement this change within 30 days;

(f) Harper will pick up all damaged merchandise that can be salvaged if refused by the consignee and disposition of the damaged or refused merchandise will be promptly accounted for by the Company. The Company will implement this change within 30 days;

(g) Harper will furnish the North Carolina Utilities Commission with a copy of each statement prepared by it and rendered to its shippers and/or consignees for the collection of freight charges due it for each calendar month in accordance with the above described accounting practices by the 15th day of each succeeding month for a period of 12 months or upon further Order of Commission. The statements shall be filed in numerical order and supported by the following:

(1) Freight bills or bills of lading showing complete information regarding each shipment, including the weight, rate, and total charges.

(2) An adding machine tape showing a list of the total charges, individually and in total, on each statement for:

(a) Carrier's contract carrier operations

(b) Carrier's common carrier operations

The above information shall be deposited with the Transportation Rates Division of the Public Staff by the 15th day of each succeeding month beginning with September 1977 and returned to the carrier when it makes a deposit of the following monthly statements.

Upon the call of this matter for hearing at the above-captioned time and place, Respondents Thomas O. Harper and Nancy H. Harper were present and represented by counsel as were Intervenors Observer and Mid-State. The Public Staff of the Commission was also present and represented by counsel.

Pursuant to the provisions of the Order of Investigation, the testimony of the Public Staff and of the Respondent were directed to be filed at least 20 days and 10 days, respectively, prior to the hearing. The testimony of the Public Staff was filed by James L. Rose, Director, Transportation Rates Division, on September 14, 1977, and for the Respondents by Thomas O. Harper, Jr., President, Harper Trucking Company, Inc., on September 23, 1977.

The testimony of Mr. Rose, both oral and prefiled, reflects that Harper was providing contract carrier service to W. H. King Drug Company and General Medical Corporation without having contracts for these shippers on file with the Commission; that Harper was providing service under that portion of its common carrier authority "Vernon James," with set minimum weight limits of 5,000 pounds for trucks and 10,000 pounds for tractor-trailer units but was not observing those weight limits as most of the shipments transported thereunder weighed 500 pounds or less; that the rates and charges assessed thereon were for the most part from the minimum charge sections of Harper's tariff; and that under the "Haywood - Atkins" authority, which carries a "truckload" restriction, Harper was providing transportation services mostly on small, less-than-truckload minimum charge shipments and Harper did not apply truckload rates or charges on such shipments.

Mr. Rose concluded his testimony with two recommendations to the Commission with respect to the future operations of Harper as follows:

(1) Relative to the carrier's contract carrier operations, it is the opinion of the Public Staff that the Commission's Order in Docket No. T-521, Sub 20, dated June 16, 1977, allowing Harper Trucking Company, Inc., to amend Certificate/Permit No. CP-38, on interim basis, by allowing the contract substitutions authorized therein should be allowed to become a permanent Order of the Commission and the Commission should order Harper Trucking Company,

Inc., to cease and desist engaging in any further operations, at any time, as a contract carrier without having first obtained authority from the North Carolina Utilities Commission to perform such services.

(2) Regarding the common carrier operation, the carrier should be advised that the sections of operating authorities granted by the Commission containing weights restrictions are to be defined as authority authorizing the transportation of a single shipment of goods tendered for transportation on one bill of lading, from one consignor, at one origin, to one consignee, at one destination, in one day's time, provided that such shipments may be allowed to be stopped in transit for the purposes of partial loading and/or unloading to not more than four consignees provided the aggregate weight of such shipment or consignment shall be no less than the minimum weight specified in the scope of operations authorized by the Commission and where minimum weight restrictions appear in authorities granted the transportation of less-than-truckload shipments is not authorized. Furthermore, the Commission should order Harper Trucking Company, Inc., to cease and desist from engaging in common carrier transportation services not consistent with authorities granted to it by the North Carolina Utilities Commission.

The testimony of Mr. Harper, both oral and prefiled, dealt with the operation of his Company, the interpretation of the various portions of Respondent's Certificate/Permit No. CP-38, and the rationale for such interpretations. Mr. Harper testified further that Respondents concur with and adopt Recommendation No. 1 of the Public Staff and that, with respect to Recommendation No. 2, Respondents concur with and adopt it except to any extent that it would prohibit their transporting truckload shipments on the basis of cubic footage or transporting shipments not meeting the minimum poundage or cubic footage where the shipper is willing to pay a truckload rate.

Upon consideration of the stipulations by counsel for Respondents, the evidence adduced, and the record in this matter as a whole, the Commission makes the following

FINDINGS OF FACT

1. That the Respondent is the holder of Certificate/Permit No. CP-38 and is subject to the jurisdiction of this Commission for the enforcement of the North Carolina Public Utilities Act and the Commission's Rules and Regulations promulgated pursuant thereto.

2. That the Respondent has engaged in providing services as a contract carrier without first having obtained from the Commission proper authority to perform such services.

3. That the Commission's Order in Docket No. T-521, Sub 20, dated June 16, 1977, allowing Harper Trucking Company, Inc., to amend its Certificate/Permit No. CP-38 by substituting contracts with W. H. King Drug Company, Inc., and General Medical Corporation in lieu of contracts with ICN Pharmaceuticals, Inc., and Raleigh Surgical Supply, respectively, on an interim basis, should become a permanent Order of the Commission.

4. That the acquisition of the "Vernon James" authority by Harper was approved by the Commission in its Order in Docket No. T-521, Sub 16, dated June 16, 1975.

5. That the "Vernon James" authority was subject to weight restrictions from its inception as follows:

"Minimum weight limits: Trucks, 5,000 pounds; tractor-trailor units, 10,000 pounds."

6. That in the transfer proceeding, Docket No. T-521, Sub 16, Harper stated it would interpret the restriction as allowing it to pick up any number of shipments from any number of consignors destined to any number of consignees.

7. That the weight restrictions set forth in Findings of Fact No. 5 and Harper's interpretation thereof were the subject of a definitive determination by the Commission in Docket No. T-521, Sub 16, Order dated June 16, 1975, in which the Commission concluded that the restriction is intended to limit transportation to one shipment from one consignor in a weight equal to the minimum and that any other transportation thereunder would be illegal.

8. That the minimum weight limits in the "Vernon James" authority are not subject to a cubic footage alternative.

9. That Harper has been transporting shipments under the "Vernon James" authority weighing less than the minimum weight limits set forth therein in violation of those restrictions.

10. That those portions of the Harper authority containing "truckload" restrictions are subject to Rule R2-31 of the Commission's Rules and Regulations.

11. That Harper has been transporting less-than-truckload shipments under the Haywood - Atkins portion of its authority in violation of the "truckload" restriction therein.

12. That transportation of less-than-truckload shipments under a certificate or portion thereof bearing a truckload limitation or restriction is a violation of that certificate and of the applicable General Statutes and Commission Rules and Regulations.

13. That Harper has been operating in violation of the Commission's Rules and Regulations involving accounting and records but stipulations have been filed indicating these violations will be corrected and Harper will comply with the Commission's accounting rules and regulations in the future.

14. That Respondent issues so-called "Master-Bills" and groups together many shipments under that bill from different consignors which circumvents the weight limit and truckload restrictions in its authority.

CONCLUSIONS

G.S. 62-262(a) provides that, with certain exceptions set forth in G.S. 62-260 and G.S. 62-265 not here pertinent, no person shall engage in the transportation of passengers or property in intrastate commerce unless such person shall have applied to and obtained from the Commission a certificate or permit authorizing such operations and it shall be unlawful for any person knowingly or willfully to operate in intrastate commerce in any manner contrary to the provisions of this article, or of the rules and regulations of the Commission.

G.S. 62-114, with respect to contract carriers, provides, among other things, that the permit shall list the names of all contract parties the carrier is authorized to serve and no additions or substitutions of contracts shall be made without approval of the Commission.

Rule R2-16(c) of the Commission's Rules and Regulations provides that every contract carrier shall file with the Commission a true copy of each individual contract between it and a shipper or passengers.

Rule R2-21 of the Commission's Rules and Regulations provides that no carrier shall engage in transportation in intrastate commerce for compensation in North Carolina until and unless such carrier shall have applied to and obtained from the North Carolina Utilities Commission appropriate authority to so operate.

Rule R2-40(a) provides that every common carrier of freight by motor vehicle receiving property for transportation shall issue a uniform bill of lading therefor, the form, terms, and conditions to be set out in tariffs and classifications on file with the Commission.

Based upon the record, the stipulations by Respondent, the evidence presented, and the foregoing findings of fact, the Commission concludes that Respondent has violated G.S. 62-262(a) and G.S. 62-114 and Rules R2-16(c), R2-21, and R2-40(a) in addition to those General Statutes and Commission rules pertaining to accounting procedures, practices, and records.

The Commission concludes further that the "Vernon James" portion of Respondent's authority with respect to the weight limits set forth therein should be further defined as intended to limit transportation to a single shipment from one consignor, on one bill of lading, at one origin, to one consignee, and at one destination with such shipments being subject to not more than four stop-offs provided the total weight of such shipment shall be no less than 5,000 pounds or 10,000 pounds as set forth and described in said authority and that these weight limits are not subject to the minimum cubic feet content as described in Rule R2-31 or any variation thereof.

The Commission also concludes that those portions of Respondent's authority subject to "truckload" limits or restrictions are subject to and governed by Rule R2-31.

The Commission further concludes that Respondent should cease and desist and be permanently enjoined from engaging in transportation of regulated commodities in intrastate commerce except as set forth in its present Certificate/Permit No. CP-38 by the issuance of a permanent Order to Cease and Desist.

The Commission is of the opinion and concludes, also, that the substitution of contracts with W. H. King Drug Company, Inc., and General Medical Corporation, in lieu of contracts with ICN Pharmaceuticals, Inc., and Raleigh Surgical Supply Company, respectively, permitted on an interim basis, should be allowed to become permanent.

IT IS, THEREFORE, ORDERED:

1. That Harper Trucking Company, Inc., Thomas O. Harper, Jr., and Nancy M. Harper be, and the same are hereby, directed to permanently cease and desist from the transportation of regulated commodities in North Carolina intrastate commerce except as set forth in Certificate/Permit No. CP-38.

2. That this Order shall remain in full force and effect until amended or cancelled by further Order of the Commission.

3. That Certificate/Permit No. CP-38 be, and the same is hereby, amended by making permanent the substitution of contracts with W. H. King Drug Company, Inc., and General Medical Corporation in lieu of contracts with ICN Pharmaceuticals, Inc., and Raleigh Surgical Supply Company, Inc., respectively, heretofore approved on an interim basis by Order in this docket dated June 16, 1977.

4. That a copy of this Order be served upon Respondents, personally, by an Inspector of the Commission with a signed copy thereof being returned by the Inspector to the Commission whereupon it will be made a permanent part of the Commission's official file in the Chief Clerk's office.

5. That any violation of this Order by Respondents will be prima facie evidence of willfulness and subject Respondents to penalties and actions in accordance with G.S. 62-310 and revocation of Certificate/Permit No. CP-38, pursuant to G.S. 62-112.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of March, 1978.

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

*Commissioner Tenney I. Deane, Jr., resigned from the Commission on October 17, 1977, and, therefore, did not participate in this decision.

DOCKET NO. T-825, SUBS 224 and 225

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Motor Common Carriers - Suspension and Investigation of Proposed Increases in Rates and Charges Applicable to Shipments of General Commodities, Including Minimum Charges	) ORDER ALLOWING WITHDRAWAL OF APPLICATION IN DOCKET NO. T-825, SUB 224, AND GRANTING INCREASE IN DOCKET NO. T-825, SUB 225

HEARD IN: The Hearing Room of the Commission, Dobbs Building, Raleigh, North Carolina, on April 19, 1978, at 9:30 a.m.

BEFORE: Commissioner Edward B. Hipp, Presiding, and Commissioners Leigh H. Hammond and Robert Fischbach

APPEARANCES:

For the Applicants:

Sherman D. Schwartzburg, John W. Joyce, 1307 Peachtree Street, N.E., Atlanta, Georgia 30309

Thomas W. Steed, Jr., Allen, Steed & Pullen, P.A., Attorneys at Law, P.O. Box 2058, Raleigh, North Carolina 27602

For the Public Staff:

Jane S. Atkins, Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, 430 North Salisbury Street - Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On October 27, 1977, the General Commodities Motor Carriers, through their agents, the North Carolina Motor Carriers Association, Inc., Motor Carriers Traffic Association, Inc., and Southern Motor Carriers Rate Conference, Inc., filed with the Commission the following North Carolina intrastate tariff supplements:

Supplement No. 10 to Tariff No. 304-A, NCUC No. 304-A issued by Southern Motor Carriers Rate Conference, Inc., on behalf of its participating carriers;

Supplement No. 3 to Tariff No. 10-G, NCUC No. 113 issued by North Carolina Motor Carriers Association on behalf of its participating carriers; and

Supplement No. 6 to Tariff No. 3-I, NCUC No. 44, issued by Motor Carriers Traffic Association on behalf of its participating carriers.

Each supplemental tariff publication provides for increases in rates and charges by amending the present less-than-truckload (LTL) and any quantity (AQ) commodity rates, exception rates, and distance or mileage commodity rates to reflect a basis no lower than Class 55. The matter was designated as Docket No. T-825, Sub 224.

By Order of the Commission of November 28, 1977, the matter was suspended, and an investigation instituted and assigned for hearing.

On November 22, 1977, the North Carolina Intrastate Motor Common Carriers of General Commodities filed an application with the Commission seeking approval of increased rates and charges with tariff filings as follows:

Supplement No. 13 to Tariff No. 304-A, NCUC No. 304-A, issued by Southern Motor Carriers Rate Conference, on behalf of its participating carriers;

Supplement No. 6 to Tariff No. 10-G, NCUC No. 113, issued by North Carolina Motor Carriers Association, Inc., on behalf of its participating carriers; and

Supplement No. 9 to Tariff No. 3-I, NCUC No. 44, issued by Motor Carriers Traffic Association, Inc., on behalf of its participating carriers.

These tariff publications were scheduled to take effect January 10, 1978, and were designated as Docket No. T-825, Sub 225. The increases in rates and charges proposed are as follows:

FOR SHIPMENTS WEIGHING (POUNDS)	PERCENT PROPOSED INCREASE
1 - 1,999	15
2,000 - more	10
Volume or Truckload	5 (see NOTE A)

NOTE A: Minimum increase two (2) cents per cwt.

ACCESSORIAL RATES AND CHARGES
ON N.C. INTRASTATE TRAFFIC

Increase in accessorial rates and charges by 15%.

MINIMUM CHARGES SCHEDULE

Increase in minimum charges by 15%.

The Commission by Order of December 19, 1977, suspended the rates, declared this matter a general rate case, and set the matter for investigation and hearing. The Commission ordered that the investigations and hearings in Docket No. T-825, Sub 224, and T-825, Sub 225, be consolidated.

On November 18, 1977, the North Carolina Textile Manufacturers Association, Inc., filed a protest and petition for suspension in Docket No. T-825, Sub 224, and on December 29, 1977, they filed a protest and petition for suspension in Docket No. T-825, Sub 225. By letter of December 7, 1977, Roger L. Schoening of Union Camp Corporation gave notice of intent to participate as a protestant in this proceeding. On January 17, 1978, the Public Staff gave notice of intervention in both Docket No. T-825, Sub 224, and Docket No. T-825, Sub 225.

By letter of April 14, 1978, the North Carolina Textile Manufacturers Association advised the Commission that they did not intend to enter an appearance at the hearing on the consolidated dockets, but that they wished to remain a party of record and wished to receive a copy of the Commission's Order when issued.

The matter came on for hearing on April 19, 1978, at 9:30 a.m., in the Commission's Hearing Room, Dobbs Building, Raleigh, North Carolina. The Applicant Motor Carriers were present and were represented by counsel. The Public Staff was also present and represented by counsel. No other party was represented by counsel.

Before any testimony was presented, the Applicant Motor Carriers moved to dismiss their application in Docket No. T-825, Sub 224, which was allowed by the Commission.

The Applicant Motor Carriers presented the testimony and exhibits of the following witnesses: Robert A. Hopkins, Secretary of the Rate Committee of the North Carolina Intrastate General Commodity Carriers; Daniel M. Acker of

the Cost and Statistical Department of Southern Motor Carriers Rate Conference; Charles A. McGowan of the Cost and Statistical Department of the Southern Motor Carriers Rate Conference; Loy J. Foster, Fredrickson Motor Express Corporation; W.D. Snavely, Vice President and Traffic Manager of Standard Trucking Company; Bruce Hooks, Assistant Traffic Manager of Routes and Rates of Thurston Motor Lines, Inc.; and R.E. Fitzgerald, Vice President, Traffic, Estes Express Lines.

The Public Staff presented the testimony of George E. Dennis, Staff Accountant; and Dennis Sovel, Rate Specialist II.

H.N. Hoofnagle, Super Motor Lines, and K.W. Shaver, Dixie Trucking Co., testified as principally small shipment carriers on behalf of an increase in minimum charge shipments, at the close of Staff testimony.

Based upon the record in this proceeding, the testimony and exhibits introduced at the hearing, and the entire record, the Commission makes the following

FINDINGS OF FACT

1. That Motor Carriers of General Commodities, parties to the tariff publication, all of whom hold certificates from this Commission for operating authority, are properly before this Commission for an increase in their rates and charges pursuant to Chapter 62 of the General Statutes of North Carolina.

2. That the total present North Carolina intrastate issue traffic expenses which have been updated to current wage levels are $34,723,706 for the study carriers and approximately $47,566,721 for all carriers.

3. That the total present North Carolina intrastate issue traffic revenues for all participating carriers are $42,149,322 and with an increase of $5,147,945, the proposed total annual revenues for all participating carriers would be $47,297,267.

4. That the present operating ratio with expenses updated for current wage costs is 112.85 percent and the operating ratio which would be generated by the proposed increase in rates and charges for all carriers would be 100.6 percent which is neither unjust nor unreasonable.

5. That the appropriate way to distribute the additional revenues is to increase the revenues in the weight groups as follows:

FOR SHIPMENTS WEIGHING	PRESENT INCREASE
Minimum Charge	5%
LTL or AQ rates applying on shipments weighing less than 1,000 lbs	15.5%
LTL or AG rates applying on shipments weighing 1,000 lbs., or more but less than 2,000 lbs.	16.6%
LTL or AQ rates applying on shipments weighing more than 2,000 lbs. but less than 5,000 lbs.	17.5%
LTL or AQ rates applying on shipments weighing 5,000 lbs. or more	17.6%
Volume or Truckload rates	7.3%

(SEE NOTE A)

NOTE A - Minimum increase 2 cents per cwt. ACCESSORIAL CHARGES AND ACCESSORIAL RATES on North Carolina Intrastate Traffic: INCREASE all accessorial charges and accessorial rates by 5%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The evidence for this finding comes from the verified application. The finding is essentially informational, procedural, and jurisdictional in nature and is not contested.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2, 3, & 4

The Applicant Carriers presented the testimony of Daniel M. Acker of the Cost and Statistical Department of Southern Motor Carriers Rate Conference and the testimony of Charles R. McGowan also of the Cost and Statistical Department of the Southern Motor Carriers Rate Conference regarding cost revenue comparisons on North Carolina intrastate traffic and the need for additional revenue based on those comparisons.

Applicants testified that the data used was taken from samples of North Carolina intrastate traffic movements of general commodities based on the experiences of the following seven cost study carriers:

Estes Express Lines
Fredrickson Motor Express
Old Dominion Freight Lines
Overnite Transportation Company
Pilot Freight Carriers
Standard Trucking Company
Thurston Motor Lines

Mr. Acker testified that the procedures used in gathering and processing of the traffic study data were designed by Dr. W. Edwards Deming, a noted sampling expert and consultant for the traffic study. He testified that the seven cost study carriers account for approximately 73% of the total actual general commodity revenue earned within the State of North Carolina for the test year 1976.

ACTUAL REVENUES AND EXPENSES FOR THE TEST YEAR

In Mr. Acker's Appendix DMA-6, Sheet 1, he shows that for the test year 1976, the cost study carriers realized actual North Carolina intrastate total expenses of $32,700,318 and earned actual revenues of $28,488,992, producing a composite operating ratio of 114.78%.

The Public Staff presented the testimony of George E. Dennis, Staff Accountant, and Dennis E. Sovel, Rate Specialist II, concerning the continuing traffic study and the data generated from that study. Mr. Dennis testified that the Public Staff audited the 1976 annual reports along with certain books and records of the cost study carriers and determined that the basic data used in the automated traffic costing system was reliable for the purpose of this proceeding. Mr. Dennis then testified that the Public Staff had the computer traffic tapes furnished by the Rate Bureau, processed through the Public Staff's automated traffic costing programs in order to determine that the programs had not been altered materially since the last general rate proceeding, that traffic costs determined through the Public Staff's costing system match those furnished by the Applicant, and that the revenue-expense comparisons testified to by the Applicants were the same as those produced through the Public Staff's automated continuing traffic/cost system. The Public Staff did not disagree with the actual expenses and actual revenues for the test year 1976 presented by the carriers.

The Commission concludes that the cost study carriers' traffic/cost revenue data consisting of 73% of total North Carolina intrastate revenues is representative of total North Carolina intrastate general commodity traffic experiences for the test year 1976. The Commission further concludes that the actual operating ratio for overall North Carolina intrastate general commodity traffic is 114.78%.

UPDATED REVENUES AND EXPENSES

Both carrier witnesses, Acker and McGowan, presented testimony concerning updating the expenses and revenues of the cost study carriers. Mr. McGowan testified that the base year labor expenses had been restated to the present pro forma level reflecting wage increases effective through August 31, 1977, but that nonlabor expenses in the base year had not been updated. Mr. Acker shows in his Appendix DMA-7 that after updating the expenses through the wage cost analysis of the cost study carriers, the present total operating expenses are $34,723,706.

Carrier witness Acker also testified that the revenues of the cost study carriers were updated by rerating the North Carolina intrastate shipments by computer. This was done by applying all the general increases in rates and charges which have become effective subsequent to the date on which the shipment was originally billed. Mr. Acker shows in his

Exhibit DHA-7 that after updating the actual revenue levels to reflect intrastate rates in effect as of May 20, 1977, the North Carolina intrastate general commodity cost study carriers' present traffic revenues totalled $30,769,005.

The Public Staff did not take issue with the carriers' operating expense updating. However, Mr. Sovel testified for the Public Staff that the carriers' method of updating the 1976 revenues would simply provide present level revenues at 1976 traffic volume levels, but that the figures would not reflect any change in the traffic volume experienced in 1977. Mr. Sovel testified that this area of the carriers' calculations needed improving and that the use of more timely data would appear to be the corrective measure necessary.

The Commission concludes that the cost study carrier updated level of North Carolina intrastate general commodity revenues is $30,769,005 and that the updated level of the North Carolina intrastate general commodity operating expenses is $34,723,706. The Commission further concludes, based on cost study carrier updated revenues and expenses, that the operating ratio for all of North Carolina is 112.85%.

ADDITIONAL REVENUE GENERATED BY INCREASE AND RESULTING OPERATING RATIO

Mr. Acker testified for the carriers that the level of revenues to be generated by the proposed increases was determined by applying the percentage increase requested in each weight group to each shipment included in that individual weight group, thereby generating sufficient revenue to produce a 100.6% operating ratio.

The Commission concludes that the additional issue traffic revenues requested by the cost study carriers would be approximately $3,758,000 (as rounded by Mr. Dennis in his Exhibit No. 3-Revised), and that the additional revenues requested for all of North Carolina intrastate issue traffic expanded from the figure for the cost study carriers would amount to approximately $5,147,945. This is calculated by dividing $3,758,000 by 73%.

The Commission further concludes that the operating ratio which would be experienced as a result of the proposed increase for all of North Carolina intrastate general commodity traffic would be 100.6%. This is the ratio requested by the Applicant Carriers in this docket and the Commission concludes that such operating ratio is neither unjust nor unreasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The carriers in this application and in the testimony of their witnesses indicated that any increases should be based primarily upon the cost/revenue relationships and that the

cost/revenue relationships justify the proposed increase in this case. The carriers proposed that the additional revenues should be distributed among the weight groups as follows producing operating ratios as indicated:

WEIGHT GROUP	% OF REVENUE INCREASE	OPERATING RATIO
Minimum Charge Shipments	15%	84.2
Shipments Weighing:		
1 - 999 lbs.	15%	95.6
1,000 - 1,999 lbs.	15%	102.4
2,000 - 4,999 lbs.	10%	113.2
5,000 lbs. and up	10%	113.6
Volume or Truckload	5%	113.3

Carrier witnesses also testified that other unspecified matters were involved in determining the proposed rate structure. They testified that competition and operating costs played the dominant role in structuring the proposal. No documentation or statistical data such as traffic, cost/revenue studies, etc., were furnished in order to substantiate the influence that competition had on the structure of the rate increases.

Public Staff witnesses, George Dennis and Dennis Sovel, criticized the method in which the respondent carriers proposed to generate the additional dollars of revenue. They presented testimony supporting the allocation of increased revenues upon cost/revenue relationships. Their testimony was that the larger proportion of the additional dollars should be alloted to the traffic categories experiencing the highest operating ratios. The Public Staff testified that this allocation of revenues placed the additional revenue requirements on those shipment groups most responsible for the net operating losses incurred by the carriers on intrastate traffic and would minimize the subsidization of the larger shipments by minimum charge shipments and other shipments weighing less than 2,000 pounds.

The majority of the respondent carriers present at the hearing conveyed a desire to accept the Public Staff's proposal for the allocation of revenues. Two respondent carrier witnesses, K.D. Shaver, President, Dixie Trucking Company; and Mr. Hoofnagle, Sales Manager for Super Motor Lines, opposed the alternative approach presented by the Public Staff indicating that they needed at least some increase on the minimum charge category.

The Commission, therefore, concludes that the appropriate means of allocating the additional revenue in this case is that shown below with appropriate operating ratios.

FOR SHIPMENTS WEIGHING	PRESENT INCREASE
Minimum Charge	5%
LTL or AQ rates applying on shipments weighing less than 1,000 lbs.	15.5%
LTL or AQ rates applying on shipments weighing 1,000 lbs., or more but less than 2,000 lbs.	16.6%
LTL or AQ rates applying on shipments weighing more than 2,000 lbs. but less than 5,000 lbs.	17.5%
LTL or AQ rates applying on shipments weighing 5,000 lbs. or more	17.6%
Volume or Truckload rates	7.3%

(SEE NOTE A)

IT IS, THEREFORE, ORDERED:

1. That Applicants' motion to dismiss their application in Docket No. T-825, Sub 224, be, and the same hereby is, allowed.

2. That Applicants shall make appropriate tariff publications to withdraw and cancel all supplemental tariff publications, as shown hereinabove for the rates and charges under suspension and investigation in Docket No. T-825, Sub 224.

3. That all supplemental tariff publications, as shown hereinabove, publishing proposed increased rates, charges, and tariff adjustments under suspension and investigation in Docket No. T-825, Sub 225, be, and the same hereby are, disallowed, and that Applicants shall make appropriate tariff publications to cancel and withdraw the involved tariff matter.

4. That the Applicants be, and the same hereby are, authorized to increase their North Carolina intrastate rates and charges applying on transportation of general commodities, involved in this proceeding, as follows:

FOR SHIPMENTS WEIGHING	PRESENT INCREASE
Minimum Charge	5%
LTL or AQ rates applying on shipments weighing less than 1,000 lbs.	15.5%
LTL or AQ rates applying on shipments weighing 1,000 lbs., or more but less than 2,000 lbs.	16.6%
LTL or AQ rates applying on shipments weighing more than 2,000 lbs. but less than 5,000 lbs.	17.5%
LTL or AQ rates applying on shipments weighing 5,000 lbs. or more	17.6%
Volume or Truckload rates	7.3%

NOTE A - Minimum increase 2 cents per cwt. ACCESSORIAL CHARGES AND ACCESSORIAL RATES on North Carolina Intrastate Traffic: INCREASE all accessorial charges and accessorial rates by 5%.

5. That the increases are hereby approved and may become effective after appropriate tariff publications in accordance with the Commission's Rules and Regulations governing the construction, filing and posting of transportation tariff schedules, upon five (5) days' notice to the Commission and to the public, from the effective date of this Order.

6. That the tariff publications hereby authorized shall be constructed in a manner so that all changes shall be included in a single table of class rates and are, therefore, not subject to further increases.

7. That the proposed increases herein authorized for application in connection with all commodity rates as published may be increased by publication of an appropriate conversion table of increased rates having application only on the commodity rates, accessorial charges and accessorial rates.

8. That the respondent motor common carriers participating in the involved tariff publications shall revise and reissue or require their respective tariff publishing agents to revise and republish their present general commodity tariffs so that all rates and charges contained in said tariffs will be the rates authorized in this Order.

9. That said revised and reissued tariff publications shall be filed with the Commission on regular statutory notice and shall be scheduled to become effective no later than October 1, 1978.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of June, 1978.

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

DOCKET NO. T-825, SUB 233

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Motor Common Carriers of Tobacco and Various Specified Accessories - Order of Suspension Pending Further Investigation Regarding Proposed Increase in Rates and Charges, Scheduled to Become Effective July 5, 1978	ORDER OF VACATION AND ALLOWING PROPOSED RATES TO BECOME EFFECTIVE

BY THE COMMISSION: By Order of the Commission dated July 3, 1978, North Carolina Motor Carrier Association, Inc., Agent (NCMCA), Raleigh, North Carolina, Local Motor Freight Tariff No. 8-R, NCUC No. 116, in full, containing

proposed increased rates applying on North Carolina intrastate transportation of unmanufactured tobacco and accessories used or useful in manufacturing, processing, storing, marketing, and transporting tobacco or tobacco products scheduled to become effective July 5, 1978, was suspended and the use and application deferred to and including August 3, 1978. The suspension came at the request of the Public Staff for additional time to conclude its investigation.

Investigation and report of the matters involved herein by the Public Staff reveals that certain erroneous information has been furnished by the participating tobacco carriers in the filing of their statements of justification. The carriers chose to use four study carriers which Applicants stated were representative of handling 75% - 85% of all "green leaf" tobacco moving in intrastate North Carolina commerce. Public Staff's investigation reveals that the four study carriers used represent approximately 26.0% of the 1977 NCMCA Tariff 8 - Revenues.

The information submitted by the four study carrier group presents a composite, projected operating ratio of 95.36% for the North Carolina intrastate transportation of the issue traffic. The Public Staff has verified the statistics presented and found the operating ratio projected to be reliable and reasonable. The Public Staff report of its investigation shows that a survey was taken for all of the motor carriers participants herein. It further shows that the projected annual revenue increase, based on previous records, will be approximately $288,818.00.

The Public Staff investigation shows that, based on the four study group information presented, there is an urgent need for allowing the rate relief being sought in this Docket.

The Public Staff recognized that the four study carrier group is not representative of the North Carolina intrastate unmanufactured tobacco transportation industry and requested the Commission to require the carriers participating in this transportation to maintain their accounts and records adequately to furnish the Commission with information and data whereby the Commission shall be provided with reliable information to sufficiently represent the industry as a whole.

The Applicant has furnished the Commission with affidavits certifying that a notice of the proposed increase has been published in newspapers having general circulation in North Carolina and that copies of this notice have been mailed to their shippers and/or consignees.

No protests to the proposed increase have been received. Letters in support thereof have been received from - Export Leaf Tobacco Co., Inc., Richmond, Virginia.

Upon consideration of the tariff filing, the Public Staff report, and the matter as a whole the Commission being of the opinion finds and concludes that the proposed 5% general rate increase involved herein is not unreasonable and should be allowed to become effective upon five (5) days' notice to the Commission and to the public; that the involved carriers shall maintain accounts and records, which will provide all the information necessary to support a general rate increase and that the involved carriers be required to furnish the Commission with information requested in the Public Staff report, including but not limited to information covering a representative group of these carriers.

IT IS, THEREFORE, ORDERED:

(1) That the Commission's Order of Suspension in this Docket dated July 3, 1978, be, and the same is hereby, vacated and set aside for the purpose of allowing the involved tariff schedules to become effective as hereinafter provided.

(2) That the publication authorized herein may be made effective on five (5) days' notice to the Commission and to the public and shall otherwise comply with the Commission's Rules and Regulations governing the construction and filing of tariff schedules.

(3) That the Applicants in this proceeding be and the same hereby are required to follow the guidelines for preparing and submitting statements of justification in future general rate increase applications as enumerated in the filing requirements of the Public Staff, attached hereto as Appendix No. 1 and made a part hereof.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of July, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

DOCKET NO. T-1138, Sub 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Transit Homes, Inc. - Suspension and Investigation of Proposed Increase in Rates and Charges, Scheduled to Become Effective October 24, 1977	) FINAL ORDER AFFIRMING) RECOMMENDED ORDER) ALLOWING RATE) INCREASE

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 22, 1978

BEFORE: Commissioner Edward B. Hipp, Presiding, Commissioners Ben E. Roney, Leigh H. Hammond, Sarah Lindsay Tate, Robert Fischbach, and John W. Winters

APPEARANCES:

For the Applicant:

Vaughan S. Winborne, Attorney at Law, 1108 Capital Club Building, Raleigh, North Carolina 27601

For the Intervenors:

Paul Lassiter, Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On September 22, 1977, Transit Homes, Inc. (hereinafter referred to as Transit or the Applicant), filed Local Freight Tariff No. 9, which would replace Tariff No. 8. The proposed tariff established tables of exact line-haul charges on individual movements according to the class, width, and length of trailer for mileage groups and proposed new rules and changes in accessorial service charges.

Definitions

1. The term initial movement describes the transportation of house trailers that have never been occupied or lived in, and contain no personal effects of the owner.

2. The term secondary movement describes the transportation of house trailers that have been previously moved and generally do contain personal effects of the owner.

The Commission, being of the opinion, that the proposed tariff affected the public interest, suspended the tariff, declared the matter to be a general rate case, instituted an investigation into the lawfulness of the tariff, and set the matter for hearing on March 22, 1978.

Motion for Intervention filed January 9, 1978, by the Public Staff-North Carolina Utilities Commission - was allowed by subsequent Order.

The matter came on for hearing as scheduled before Hearing Examiner Robert P. Gruber. All parties were present and represented by counsel.

Applicant offered the testimony of Jerry P. Sullivan, Assistant Vice President of Operations for Transit Homes, Inc. The Public Staff offered the testimony of Dennis E. Sovel, Rate Specialist II, Transportation Division, Public Staff, and James C. Turner, Accountant, Public Staff.

On May 25, 1978, a Recommended Order was issued allowing "Transit Homes, Inc., Local Freight Tariff No. 9, N.C.U.C. No. 9 in full."

On June 9, 1978, the Public Staff filed ten (10) Exceptions to Recommended Order, requesting oral argument pursuant to G.S. 62-78(c), and that the effective date of the Order be stayed.

On August 23, 1978, the Commission issued an Order setting the Exceptions to the Recommended Order for oral argument on September 22, 1978. All parties were represented by counsel as named above.

Upon review of the entire record in this docket, the transcript of the hearing, the Recommended Order of May 25, 1978, the exceptions thereto and the oral argument of counsel, the Commission adopts the Findings of Fact and Conclusions set forth in the Recommended Order.

IT IS, THEREFORE, ORDERED as follows:

1. That Exceptions Nos. 1-10 filed June 9, 1978, by counsel for the Public Staff are hereby overruled.

2. That the Recommended Order allowing "Transit Homes, Inc., Local Freight Tariff No. 9, N.C.U.C. No. 9 in full," dated May 25, 1978, is hereby affirmed in its entirety.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-66, SUB 82

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rail Common Carriers - Suspension and Investigation of Proposed Cancellation and Revisions in Rates on Brick or Tile Raw Materials Between Points in North Carolina	) FURTHER ORDER ON EXCEPTIONS) FILED PURSUANT) TO G.S. 62-76

HEARD IN: Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina, June 29, 1977, at 10:00 a.m.

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

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 System

James L. Howe III, Attorney at Law, Southern Railway System, P.O. Box 1808, Washington, D.C. 20013
For: Southern Railway System and North Carolina Railroads

For the Protestant-Intervenor:

Robert O. Klepfer, Jr., Stern, Rendleman, Isaacson & Klepfer, Attorneys at Law, P.O. Box 3112, Greensboro, North Carolina

For the Commission Staff:

Jane S. Atkins, Associate Commission Attorney, North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 4, 1976, Southern Freight Tariff Bureau (SFTB) (Southern Freight Association, Agent), 151 Ellis Street, N.E., Atlanta, Georgia 30303, for and on behalf of rail carriers operating in North Carolina, filed tariff schedules proposing to cancel the mileage scale rates in effect at that time and to publish revised mileage scale rates on brick or tile raw materials, further described as crude earth suitable only for the manufacture of brick or tile, as provided in Item 6185 series of SFTB Tariff 763-G, scheduled to become effective July 9, 1976.

On June 29, 1976, John L. Rendleman, Attorney, Stern, Rendleman, Isaacson & Klepfer, Attorneys at Law, Greensboro, North Carolina, for and on behalf of Boren Clay Products Company, P.O. Box 368, Pleasant Garden, North Carolina 27313, filed a Petition protesting the proposed changes in rates involved herein and requested the Commission to suspend the tariff schedules and assign the matter for hearing.

The Commission, being of the opinion that the proposed changes in rates was a matter affecting the public interest issued an Order in this docket dated July 7, 1976, suspending the proposed rates, instituted an investigation, and set the matter for hearing. The hearing was held in the Commission Library, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 5, 1976, before Hearing Examiner Wilson B. Partin, Jr.

On January 13, 1977, the Respondent Railroads filed a brief in this docket and on January 14, 1977, Attorneys for the Protestants filed their brief in this matter.

On April 4, 1977, a Recommended Order granting the rate increase was issued.

On April 19, 1977, Attorneys for Protestant, Boren Clay Products Company, filed exceptions to the Recommended Order granting the rate increase and requested the opportunity for oral argument before the Commission upon these exceptions.

On May 24, 1977, the Commission issued an Order in this docket setting the exceptions to the Recommended Order for oral argument on June 7, 1977, which was subsequently assigned before the Commission on June 29, 1977. All parties were present and were represented by counsel as named hereinbefore.

Although the revised rates as proposed by the rail carriers in this proceeding cover a wide range of mileage scale rates, the Commission finds only one movement actually involved, based on the testimony in this case, which is the movement for Boren Clay Products Company from Boren Siding, North Carolina, to Roseboro, North Carolina.

While the Commission recognizes that it may be difficult to determine the exact costs involved in the movement of one particular commodity, within a specific state or region, it finds that the rail carriers have furnished cost data in regard to the shipments in question tending to justify the increased rates as proposed.

Also, in this respect it is found when comparing the rates on sand or gravel with the proposed rates on brick or tile raw material (crude earth) that the proposed rate on the only known movement of brick or tile raw material involved in this proceeding will remain one cent per ton less than like shipments of sand or gravel when handled in similar

equipment, at the present Ex Parte level of rates. Under these circumstances the Commission fails to find any undue discrimination in the proposed rates.

After further hearing on exceptions, before the Commission, and upon review of the entire record in this docket, the transcript of the hearings, the Recommended Order of April 4, 1977, and exceptions and assignments of error thereto, and the arguments of counsel, the Commission is of the opinion, finds and so concludes that the exceptions filed by counsel for and on behalf of Protestant on April 19, 1977, should be overruled and that the Recommended Order issued by the hearing examiner should be affirmed.

IT IS, THEREFORE, ORDERED:

(1) That exceptions numbered one through 10 filed April 19, 1977, by counsel for and on behalf of Protestant, Boren Clay Products Company, are hereby overruled.

(2) That the Recommended Order Granting Rate Increase dated April 4, 1977, is hereby affirmed.

(3) That the revised rate schedules on brick or tile raw materials which became effective on April 4, 1977, by virtue of the expiration of the period of suspension specified in the Commission's Order dated July 7, 1976, shall be continued in effect unless otherwise authorized by the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of August, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Commissioner Hipp did not participate.

DOCKET NO. R-66, SUB 87

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rail Common Carriers - Suspension and Investigation of Proposed Increase in Rates and Charges, (X-343), Scheduled to Become Effective November 31, 1977	ORDER DISMISSING APPLICATION WITHOUT PREJUDICE

HEARD IN: Room 213, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Tuesday, 10 January 1978, at 9:30 a.m.

BEFORE: Commissioners John W. Winters, Ben E. Roney, and Leigh H. Hammond

APPEARANCES:

For the Applicant:

James L. Howe III, P.O. Box 1808, Washington, D.C.

Albert B. Russ, Jr., P.O. Box 27581, Richmond, Virginia 23261

For the Public Staff:

Paul Lassiter, Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Attorney General:

Richard L. Griffin, Associate Attorney General, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On 11 October 1977 Southern Freight Tariff Bureau (SFTB), 151 Ellis Street, N.E., Atlanta, Georgia 30303, for and on behalf of the rail carriers in North Carolina, filed a tariff schedule proposing an increase of approximately five percent (5%) in rates applicable on North Carolina intrastate shipments scheduled to become effective 30 November 1977 and designated as follows:

Supplement No. S-3 to Tariff of Increased Rates and Charges X-343.

The Commission, being of the opinion that this matter affected the public interest, entered an Order in Docket No. R-66, Sub 87, dated 24 October 1977, which suspended the effective date of the above-mentioned tariff schedule for a period of 270 days, instituted an investigation into and concerning the lawfulness thereof, and directed the Applicant-Respondents to comply with Commission Rule R1-17(b)(12) and assigned the matter for hearing on 10 January 1978.

Notices of Intervention were filed on 9 and 12 December 1977 by the Attorney General and the Public Staff, respectively.

On 15 December 1977, the Attorney General filed a Motion to dismiss the Application. A like Motion, incorporating by reference the arguments of the Attorney General, was filed on 16 December 1977 by the Public Staff. On 3 January 1978, the carriers filed a Reply.

The matter came on for hearing as scheduled before Commissioners Winters and Roney, the parties having stipulated that Commissioner Hammond would read the record and participate in the decision. The Commission heard argument on the Attorney General's and Public Staff's Motions to Dismiss, which were taken under advisement and were renewed at the close of the carriers' case and at the close of all the evidence.

Upon consideration of the Motions to Dismiss and the Reply thereto, and taking official notice of its records in Docket Nos. R-66, Subs 80 and 83, the Commission concludes that the Application herein, consisting of the proposed tariff schedule and supporting data contained in the testimony and exhibits of the carrier witnesses, should be dismissed. This is so for the following reasons:

1. On 4 January 1977 in Docket No. R-66, Sub 83, the rail common carriers filed for a four percent (4%) rate increase, based upon data for the calendar year 1976, which was allowed effective 19 December 1977 by order of the Interstate Commerce Commission (ICC) issued 18 November 1977 in Docket No. 36581. The instant filing is based upon the same data for the same year.

2. On 29 September 1977 the ICC issued its order in Docket No. 36478 allowing the rail carriers to put into effect, as of 31 October 1977, a seven percent (7%) rate increase applicable on North Carolina shipments, an increase which had been denied by order of this Commission issued 21 October 1976 in Docket No. R-66, Sub 80.

3. None of the financial data filed by the carriers in the instant Application contains pro forma adjustments for the effects of the seven percent (7%) or the four percent (4%) rate increases cited above. The data do, however, contain adjustments for alleged increases in expenses since the end of the calendar year 1976, which is the test year upon which the four percent (4%) rate increase was previously denied.

The Commission is of the opinion that to seek cumulative rate increases based upon what is in effect the same data is to abuse the test period concept. An old test period updated by adding new expenses is a poor substitute for a new test period based on actual experience. That such experience includes known revenue increases occurring up to the time of hearing should go without saying.

This Commission has repeatedly admonished the rail common carriers to present affirmative evidence as to rate base, rate of return, and revenue and expense separations so that we may render informed decisions in matters involving intrastate rates. Once again in this docket, however, the carriers have submitted data from which it is impossible for the Commission to determine the level of earnings under present or proposed rates and therefore whether the tariff

in question is just and reasonable. Upon such a record the Commission has no choice but to dismiss the Application.

IT IS, THEREFORE, ORDERED as follows:

1. That the Application of the Rail Common Carriers for an increase in rates and charges, X-343, scheduled to become effective 30 November 1977, be, and the same is hereby, dismissed without prejudice.

2. That the request for proposed findings and conclusions on the merits in this matter be, and the same is hereby, rescinded.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. R-66, SUB 93

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rail Common Carriers - Suspension and Investigation of Proposed Increase in Rates and Charges (X-349), Scheduled to Become Effective July 21, 1978	ORDER ALLOWING RATE INCREASE OF 2% ON GENERAL FREIGHT AND 4% ON COAL

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

HEARD ON: Tuesday, September 26, 1978, at 9:30 a.m.

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Robert Fischbach and John W. Winters

APPEARANCES:

For the Respondents:

Odes L. Stroupe, Jr., Joyner & Howison, P.O. Box 109, Raleigh, North Carolina 27602
For: North Carolina Railroads, Southern Railway Company, and Norfolk Southern Railway Company

James L. Howe III, Southern Railway System, P.O. Box 1808, Washington, D.C. 20013
For: North Carolina Railroads, Southern Railway Company, and Norfolk Southern Railway Company

Albert B. Russ, Jr., Seaboard Coast Line Railroad Company, 3600 West Broad Street, Richmond, Virginia
For: North Carolina Railroads and Seaboard Coast Line Railroad Company

For the Intervenor:

Paul Lassiter, Staff Attorney, and Steve Kozy, Staff Attorney, P.O. Box 991, Raleigh, North Carolina 27602
For: The Public Staff and the Using and Consuming Public

BY THE COMMISSION: This matter arose upon the filing with this Commission by Southern Freight Tariff Bureau (SFTB), 15 Ellis Street, N.E., Atlanta, Georgia 30303, on June 16, 1978, for and on behalf of rail carriers in North Carolina, of a tariff schedule proposing an increase (approximately 2% on commodities generally, and approximately 4% on coal) in rates and charges applicable on North Carolina intrastate rail shipments scheduled to become effective July 21, 1978, designated as follows:

SFTB Tariff of Increased Rates and Charges, X-349, Supplement No. S-13, thereto in full.

The Commission, being of the opinion that this is a matter affecting the public interest, by Order dated July 11, 1978, suspended the proposed increased rates, declared this matter to be a general rate case under G.S. 62-137, ordered that an investigation be conducted into and concerning the lawfulness of the tariff schedule suspended, and set this matter for hearing in the Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Tuesday, September 26, 1978, at 9:30 a.m. On September 5, 1978, Notice of Intervention was filed by the Public Staff of the North Carolina Utilities Commission pursuant to N.C.G.S. 62-15(d).

The Applicants at this time offered testimony of R.D. Briggs, Assistant Director, Commerce, Marketing and Planning Division, Southern Railway System, Washington, D.C. 20013. Mr. Briggs testified that the railroads need additional revenues to cover increased operating costs, replenish working capital, and absorb higher replacement and retirement costs, in order to purchase, maintain, and operate the systems so as to continue to serve the public. He testified generally that operating expenses and capital outlays had increased for the Class I rail carriers in the South and that the railroads in his opinion would not lose traffic to other carriers because of the requested increase but, to the contrary, would experience an increase in ability to provide good service which can only be maintained by proper funding and legitimate rate increases to meet increasing costs. Mr. Briggs thereafter offered exhibits to illustrate portions of his testimony.

John K. Hoza, Research Analyst, Research Department, Southern Freight Association, 1920 L Street, N.W., Washington, D.C., was presented and offered testimony on behalf of the railroads operating in North Carolina, in support of their request to increase freight rates and charges by 2% to offset cost escalations occurring since the last general increase. Mr. Hoza stated that cost escalations incurred by the principal railroads operating in North Carolina subsequent to ex parte 343, were $79.9 million, which exceeds the estimated revenue yield for said carriers at the present rate level, and in fact justifies a rate increase of almost 5%, although the railroads are only seeking 2%. Mr. Hoza further went on to detail with testimony, exhibits, and individual items representing the $79.9 million cost escalation. He offered testimony and exhibits reflecting a listing of all Class I and Class II railroads, switching and terminal companies operating within the State and the total miles of line operated by these railroads, and the proporionate percentage of such mileage operated in this State. He stated that cost escalations could, in his opinion, affect the financial condition of the railroads and their ability to provide modern facilities to meet North Carolina's and the Nation's transportation needs, if additional revenue is not immediately forthcoming. He indicated that for the 12-month period ended March 31, 1978, the principal railroads operating in North Carolina had realized a rate of return of 7.20% on net investments systemwide. He further stated that, in his opinion, this is an inadequate rate of return. Mr. Hoza indicated that rising costs have been exceeding rising revenues in recent years, although much has been done by North Carolina railroads to improve their efficiency. Mr. Hoza further indicated that, in his opinion, operating ratios had little relevance to profitability or financial condition of railroads. Mr. Hoza also offered testimony and exhibits relative to capital expenditures, sources of working capital, changes in financial position, equipment obligations, ratio of assets to liabilities, ratio of net railway operating income to gross income, employee compensation trends, and trend in prices of materials and supplies of principal railroads operating in North Carolina.

R.A. Robb, Commerce Statistician in the Accounting Department, Office of Assistant Comptroller, Southern Railway Company, Washington, D.C. 20013, was presented and offered testimony that Southern Railway Company and Norfolk Southern Railway Company are part of the Southern Railway System and that said companies are losing money on North Carolina intrastate operations. Mr. Robb indicated that the Luckett formula, previously approved by the North Carolina Utilities Commision and the North Carolina Supreme Court and used for separating North Carolina interstate and intrastate expenses, was revised in 1974 in conjunction with a study program undertaken by Southern Railway Company and the North Carolina Utilities Commission Staff. He further indicated that the accuracy of the Luckett formula has, in his opinion, been improved because the formula now uses cars

originated and terminated in lieu of tons originated and terminated and that gross ton miles are now used instead of revenue ton miles, with loaded and empty cars having been added to the formula. Mr. Robb further indicated, with regard to the principal Class I railroads operating within the State of North Carolina for the year 1977, that, without exception in every case, there is no rate of return inasmuch as there is a deficit in earnings. Mr. Robb then indicated that on the basis of a pro forma adjustment for all rate increases applied for to the present date, the rate of return for Southern Railway Company would be approximately 1.63%, and for Norfolk Southern Railway Company, approximately 1.47%. Mr. Robb indicated that the deficit on intrastate freight in North Carolina did not surprise him inasmuch as there were more handlings concerned with intrastate traffic and that, normally, lower-rated traffic moved intrastate. Finally, Mr. Robb offered exhibits and testimony showing the rate base and the separation of revenues, expenses, rent, and taxes.

George M. Gallamore, Commerce Officer, Seaboard Coast Line Railroad Company, 500 Water Street, Jacksonville, Florida 32202, was presented and offered testimony as to cost escalations incurred by Seaboard Coast Line Railroad Company which necessitated immediate increase in revenues in order to allow the Seaboard Coast Line to continue to provide the quality of service that it is now providing to the residents and citizens of North Carolina.

The Public Staff of the North Carolina Utilities Commission offered the testimony of J. Phillip Lee, Rate Specialist and Special Investigator, Transportation Rates Division of the Public Staff, North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602. Mr. Lee offered testimony and exhibits which listed the rail carriers operating in the State of North Carolina and showed the operating revenues, expenses, and operating ratios within the State of North Carolina for the years 1971 through 1977. Mr. Lee indicated that operating ratios for 1977 were better than those for 1976 and that these operating ratios showed a steady increase. Mr. Lee admitted in his testimony that these operating ratio figures do not reflect expenses for interest on loans, corporate bonds, dividends paid to shareholders, tax accruals, or rents and, therefore, they do not necessarily reflect the carriers' net profits or losses, nor the net return. Mr. Lee indicated that, in his opinion, the increase sought by the carriers was not justified because the operating ratios were more favorable for 1977 than for 1976 and the carriers had failed to show substantial need.

The Public Staff of the North Carolina Utilities Commission next offered the testimony of George E. Dennis, Staff Accountant with the Public Staff, 430 North Salisbury Street, Raleigh, North Carolina 27602. Mr. Dennis offered testimony and exhibits indicating the operating ratios of the principal railroads operating within North Carolina,

indicating that the operating ratio was 90.5% for these three carriers, while they had a rate of return of 6.17%. Witness Dennis indicated that the Public Staff objected to the manner in which the principal railroads derived North Carolina expenses before application of the Luckett formula and indicated, in his opinion, the Luckett formula should be applied to the total system expenses of the carriers so as to provide more accuracy than historical ratios developed by the railroads. Mr. Dennis finally indicated that he could give no opinion as to what a reasonable rate of return would be.

Based on the testimony given, the exhibits presented and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. That the common carriers participating in the tariff schedule under suspension in this proceeding are subject to regulation by the Commission and are properly before the Commission with respect to such rates and charges through the representation of the Southern Rate Tariff Bureau.

2. That the railroads' method of separation of system expenses and North Carolina expenses in the application of the Luckett formula is reasonable in light of the record in this case and the present requirements of the Commission Rule R1-17(b)(12)g.

3. That the approximate, rateable portion of the railroad property used and useful, devoted to intrastate traffic in North Carolina, is $36,462.00.

4. That the rate of return for Southern Railroad Company on its portion of said property devoted to intrastate service in North Carolina with said rate increase would be 1.63% and the rate of return of Norfolk Southern Railroad Company on its said investment in intrastate service would be 1.47%; that said rates of return are representative as study railroads for the applicants and are not a sufficient rate of return on the property devoted to service in North Carolina.

5. That the proposed 2% increases in general rates and charges and 4% increase in coal rates will compensate the railroads for their increased expenses and will allow a more reasonable rate of return on their North Carolina investment.

6. That the intrastate rates and charges in effect by the railroad companies in North Carolina in September 1978 were not sufficient to produce revenue adequate to provide a fair, reasonable, and just rate of return on property committed to intrastate use, used and useful in producing revenue.

7. That the increase in intrastate rates and charges for the railroads set out in their application dated June 16, 1978, in this matter is necessary at this time to afford the railroads a fair return on their property used and useful in connection with their intrastate operations in North Carolina.

8. That inflation in many phases of intrastate common carrier operation has actually affected the operating ratios of Respondents.

9. That the common carriers participating in the tariff schedules under suspension in this proceeding are subject to regulation of this Commission and need the additional revenues which will be produced by the filed increase in their rates and charges to earn a rate of return which will produce a fair profit under G.S. 62-133(b)(4).

CONCLUSIONS

The rail carriers in this proceeding have carried the statutory burden of proof to show from material and substantial evidence that their present rates and charges on intrastate freight rates are not sufficient to permit them to continue to offer adequate and efficient transportation service to the public under said tariff.

N.C.G.S. 62-133 requires that this Commission give due consideration to, among other factors, the fair value of the public utilities' property used and useful in providing the service rendered to the public within this State, the utilities' estimated revenue under the present proposed rates, the utilities' estimated revenue operating expenses, and, thereafter, requesting this Commission to fix a rate of return on the fair value of the property as will enable the public utilities by sound management to produce a fair profit for its stockholders, considering changing economic conditions and other factors as they then exist to maintain its facilities and services in accordance with the reasonable requirements of its customers and the territory covered by its franchises and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and which are fair to its existing investors.

The Commission concludes that Respondents have shown a need for additional revenues that the proposed increase will produce, that the proposed increases are not excessive, and that the suspended tariff schedule should be allowed to become effective.

While the Commission does not conclude that the formula and method used in making the separations in this case reflect, to a certainty, accurate results, the Commission does conclude that the carriers have, in good faith, attempted to modify said formula and methodology to reflect more accurate results and the Commission advises and enjoins

the Respondents herein to continue such efforts; however, the Commission concludes that the evidence, when considered in light of the circumstances in this case, demonstrates that the intrastate operations of the carriers by rail operating within the State of North Carolina do not produce sufficient revenues to provide a fair rate of return for such operations.

The Public Staff has presented studies in its Proposed Order filed after the close of the hearing which would indicate a need to conduct further investigations into the method of applying the Luckett formula on intrastate rail traffic in North Carolina. The proposed modifications of the formula are presented in general terms without application of data to show the results of such proposed modifications. The Luckett formula is the result of an authorization for a formula by the North Carolina Supreme Court in Utilities Commission v. Champion Papers, Inc., 259 N.C. 449 (1963), and has been generally recognized by the Commission in Rule R1-17(b)(12)g. The Commission concludes that modifications in the application of the formula should be considered in separate rule-making proceedings.

The Public Staff made a verbal request during the cross-examination of rail witness Robb that the railroads supply the Public Staff with a copy of the ICC Rail Form A prepared for internal use in their Interstate Commerce Commission rate cases. Ruling on the request was deferred at that time on objection of the railroads as to confidentiality, proprietary limitations, and materiality. The Public Staff completed its case without reliance on said Rail Form A and without renewal of its request. The Proposed Order of the Public Staff seeks an Order of the Commission for the railroads to supply said Rail Form A 30 days from the date of the Order in this case. The Commission concludes that utility rates are a subject of continual surveillance in North Carolina, and the Commission treats this Proposed Order as a request for continued surveillance of the rail rates approved in this case for the purpose of further investigation by the Public Staff and allows the Motion, without prejudice to the railroads' offer of such Rail Form A under any rights of confidentiality which may apply to the ICC form. The Public Staff would have the right at any time to petition for appropriate rule-making proceedings to review the Luckett formula based upon such data as might be applicable from said Form A.

IT IS, THEREFORE, ORDERED:

1. That the Order of Suspension in this docket dated July 11, 1978, be and the same is hereby vacated and set aside for the purposes of allowing the tariff schedules as amended to become effective;

2. That publications authorized hereby may be made on one day's notice to the Commission and 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 and the same is hereby discontinued; and

4. That the applicant railroads supply the Public Staff with their latest ICC Rail Form A within 30 days of the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of October, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. WU-102

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Filing of Revised Tariffs by Western Union Telegraph Company for Approval of Certain Adjustments in its Rates and Charges Applicable to Intrastate Telegraph Service	) RECOMMENDED ORDER APPROVING RATE ADJUSTMENTS

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on August 22, 1978

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant Western Union Telegraph Company:

John R. Jordan, Jr., Jordan, Morris and Boke, Attorneys at Law, P.O. Box 709, Raleigh, North Carolina

John M. Scorce, Associate Counsel, Western Union Telegraph Company, 1828 L. Street, N.W., Washington, D.C. 20036

For the Public Staff:

Paul L. Lassiter, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: On March 6, 1978, the Western Union Telegraph Company (Western Union) filed revised tariffs with this Commission to increase its rates and charges for Telex Service, Teletypewriter Exchange Services (TWX), and Teleprinter Computer Services (TCS) in North Carolina. Western Union proposed to make the requested rate adjustments effective on and after April 15, 1978. On April 12, 1978, the Commission issued an order declaring Western Union's filing to be a general rate case, suspended the revised tariffs for a period of 270 days from the proposed effective date, and set the matter for hearing beginning on August 22, 1978, at which time it was heard and concluded. Western Union was directed by the Commission to publish, in newspapers having general coverage in its service area, the Notice of Hearing attached to the Commission's order of April 12, 1978, 45 days in advance of the hearing. Western Union presented evidence of such publication at the hearing (Western Union Exhibit A). Additionally, the Commission directed Western Union to mail to each of its subscribers the Notice of Hearing attached to the Commission's order of April 12, 1978, approximately 45 days in advance of the hearing. Western Union presented evidence of such mailing at the hearing (Western Union Exhibit B).

The Commission's order of April 12, 1978, provided for intervention by other parties, the filing of testimony by Western Union, intervenors, protestants, and the Public Staff. During the hearing, Western Union presented evidence supporting its proposed rate revisions and the Public Staff presented evidence concerning Western Union's proposed rate revisions, return and cost allocation process. No other parties intervened in the proceeding nor appeared at the hearing in support of or in opposition to the proposed rate revisions, at the end of the hearing the application was taken under advisement by the Hearing Examiner.

POSITION OF THE PARTIES

Western Union

Western Union witness R. E. Hubley testified that Western Union applied for the rate adjustments to generate additional revenues to help offset increased costs in labor, construction, and capital areas; to reflect cost and revenue relationships to a greater extent; to improve the rate of return on investment in North Carolina; and to improve the competitive status of the Telex and TWX services with certain competing telephone company services. Western Union also stated that to maintain rate uniformity on an interstate and intrastate basis, it was filing the same rate revisions in all the other states and the District of Columbia matching those interstate rate adjustments filed December 1, 1977, with the Federal Communications Commission (FCC) which became effective on August 10, 1978.

According to the evidence filed by the Company, the proposed intrastate rates for North Carolina would produce an annual increase in gross revenues of approximately $47,386. Mr. Hubley testified that the proposed rate changes are as follows:

TWX Service
Two Point Connections
Interexchange

PRESENT			PROPOSED		
Rate Mileage		Charge for Each Minute or Fraction Thereof*	Rate Mileage		Charge for Each Minute or Fraction Thereof*
Over	Up to and Including		Over	Up to and Including	
0 -	50	$.20	0 -	40	$.30
50 -	110	.25	41 -	124	.40
110 -	185	.30	125 -	355	.44
185 -	280	.35	356 -	550	.48
280 -	400	.40			
400 -	550	.45			

*On collect calls add $.25 to the total charge computed.

TWX Service
Conference Connections
Interexchange

PRESENT:

When the Rate Mileage Between the Two Exchanges Farthest Apart Is: Over	Up to and Including	*Charge Per Minute or Fraction Thereof Between the Two Exchanges Farthest Apart and Including One Station in Each of These Exchanges	For Each Additional Station Regardless of Location
0 -	50	$.30	$.20
50 -	110	.40	.25
110 -	185	.45	.30
185 -	280	.55	.35
280 -	400	.60	.40
400 -	550	.70	.45

*On collect calls add $.25 to the total conference charge computed.

PROPOSED:

When the Rate Mileage Between the Two Exchanges Farthest Apart Is: Over	Up to and Including	*Charge Per Minute or Fraction Thereof Between the Two Exchanges Farthest Apart and Including One Station in Each of These Exchanges	For Each Additional Station Regardless of Location
0 -	40	$.45	$.30
41 -	124	.60	.40
125 -	355	.66	.44
356 -	550	.72	.48

*On collect calls add $.25 to the total conference charge computed.

In addition to the changes reflected above, Western Union proposed increases in the TWX-TCS-TWX usage charge from 25¢ per minute to 34¢ per minute, increases in the Telex-TCS-Telex usage charge from 1.75¢ per 1/10 minute to 2.25¢ per 1/10 minute, increases in the TWX two-point local connections (same exchange) charge and the TWX conference local connections (same exchange) charge from 15¢ per minute to 20¢ per minute, and a change in the Telex usage rate from 7 pulses per minute to 9 pulses per minute. (Each pulse is recorded individually and is billed at 2.5¢. Thus, the effective usage charge is being increased from 17.5¢ per minute (7 x 2.5¢) to 22.5¢ per minute (9 x 2.5¢).)

Mr. Reilly, Western Union's cost and return witness, presented evidence showing North Carolina intrastate average original cost net investment rate base, operating revenues and operating revenue deductions for the twelve months ended

June 30, 1977. Mr. Reilly's testimony showed pre-tax net operating revenue of $41,828 for total North Carolina intrastate operations and a 3.0 percent pre-tax rate of return. Mr. Reilly then showed that adjusting this data for known changes, without benefit of the proposed rate charges, produces a pre-tax net operating revenue of $2,369 for total intrastate North Carolina operations for a pre-tax rate of return of 0.2 percent. Adjusting this data to take into account the proposed rate changes would improve the overall pre-tax rate of return in North Carolina to 3.5 percent.

Public Staff

The Public Staff presented two witnesses at the hearing, Leslie C. Sutton and E. Thomas Aiken. Mr. Sutton presented testimony concerning the results of his investigation regarding the appropriateness of the apportionment of Western Union's operations between the interstate and intrastate jurisdictions. Mr. Sutton conducted an extensive investigation of Western Union's allocation methodology and testified that the results of such investigation indicates that Western Union has been consistent in its application of the methodology to North Carolina operations when compared to all 49 jurisdictions in which Western Union operates. Further, Mr. Sutton applied Western Union's methodology to total system operations and obtained North Carolina intrastate investments, expense and revenues. Mr. Sutton testified that the results he obtained indicated a 3% pre-tax rate of return for Western Union's North Carolina operations, a result very similar to that obtained by Western Union. Although Mr. Sutton testified that he accepted the Western Union methodology as an acceptable allocation procedure, he stated that one problem he found with the methodology is that it does not necessarily allocate the actual intrastate investments and expenses to North Carolina nor the other jurisdictions.

Mr. Aiken testified that he examined the records of Western Union for the twelve months ended June 30, 1977. Mr. Aiken developed net operating income for return, before income taxes, for the test year ended June 30, 1977, under present rates and also as adjusted in Western Union's prefiled testimony. Mr. Aiken also presented an average original cost net investment base for the period ended June 30, 1977. Mr. Aiken testified that the North Carolina return on average original cost net investment, after Western Union's adjustments including the effect of the proposed rate changes, would be 3.32 percent pre-tax and 1.63 percent after income taxes.

FINDINGS OF FACT

The evidence filed by the Public Staff and Western Union essentially reach the same results. The following table, which relies on the evidence of both parties, summarizes the results of intrastate North Carolina operations for the test year ending June 30, 1977, with adjustments for known

changes as well as for additional revenues expected from the proposed rate changes:

EFFECT OF PROPOSED RATE REVISIONS
ON INTRASTATE NORTH CAROLINA OPERATIONS
FOR ALL SERVICES (IN THOUSANDS)
TEST YEAR ENDED JUNE 30, 1977

	YEAR ENDING 6/30/77	ADJUSTMENT FOR KNOWN CHANGES	6/30/77 RESTATED	PROPOSED ADDITIONAL REVENUE ADJUSTMENTS	RESTATEMENT INCLUDING PROPOSED CHARGES
Average Net Investment Rate Base	$1,412	$ --	$1,412	$--	$1,412
Operating Revenues	742	3	745	47	792
Expenses	701	42	743	3	746
Net Operating Income	41	(39)	2	44	46
Pre-Tax Return on Rate Base	3.0%	--	0.02%	--	3.0%

Actual revenues were adjusted to reflect tariff revisions occurring during the test year. Expenses were adjusted to reflect increased labor and payroll costs under union contract provisions and increased depreciation rates becoming effective at interim dates after the start of the test year. Adjustments of these types are normal and the Commission finds them proper in this case.

The record shows that after adjustment, including the rate increase requested, Western Union's prospective net operating income before taxes on its intrastate operations in North Carolina will be approximately $46,000, which when applied to the projected intrastate rate base of approximately $1,412,000, will equate to a 3.0 percent pre-tax rate of return. Considering this evidence, the Commission finds that the rate changes proposed by Western Union will not result in a rate of return which will be excessive for Western Union's intrastate operations in North Carolina. Consequently, the Commission is of the opinion that Western Union's proposed rate revisions should be granted, effective for service rendered on and after October 1, 1978.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact and the record in this proceeding as a whole, we conclude that the proposed rate revisions will not provide revenues which would result in an excessive rate of return on investment for Western Union's intrastate North Carolina operations, and thus should be granted.

IT IS, THEREFORE, ORDERED:

1. That Western Union's rate revisions are hereby approved and Western Union is authorized to implement the rate adjustments as filed for in this case for its intrastate North Carolina services.

2. That Western Union shall file tariff schedules with this Commission, which shall conform with those presented and approved in this proceeding and showing an effective date as herein ordered.

3. That the rates and charges authorized in this order shall be effective for service rendered on and after October 1, 1978.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of September, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-89, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition by Certain Stockholders for Assistance - Ra-Tel Company, Inc., 115 East Anderson Street, Selma, North Carolina	) RECOMMENDED ORDER TRANSFERRING FRANCHISE
and	)
Petition by Coastal Carolina Communications, Inc., a North Carolina Corporation, for Approval to Operate the Authority of Certificate No. P-92, Radio Common Carrier, Held by Ra-Tel Company, Inc.	)

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on February 28, 1978, at 9:30 a.m.

BEFORE: Hearing Examiner Antoinette R. Wike

APPEARANCES:

For the Applicant:

Vaughan S. Winborne, Attorney at Law, 1108 Capital Club Building, Raleigh, North Carolina 27601
For: John Askew, Wilson Jiggs Broadwell, and Coastal Carolina Communications, Inc.

For the Intervenor:

Dwight W. Allen, Assistant Commission Attorney, North Carolina Utilities Commission - Public Staff, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

WIKE, HEARING EXAMINER: By Petition filed on December 19, 1977, Wilson Jiggs Broadwell and John B. Askew, owners of 50% of the stock of Ra-Tel Company, Inc. (Ra-Tel), a radio common carrier holding Certificate No. P-92 issued by this Commission, requested that the franchise now held by Ra-Tel be cancelled, revoked, or transferred; that proper steps be taken to provide service to the public pending action by the Commission or other regulatory bodies; or, in the alternative, that the franchise be ordered transferred upon such terms as are reasonable and proper to protect the public interest.

By separate Petition also filed on December 19, 1977, Coastal Carolina Communications, Inc. (Coastal Carolina), a radio common carrier holding Certificate No. P-126 and having as its principal stockholders P. Hutson Moody, Jr.,

and John B. Askew, requested that it be authorized and directed to assume operational control of Ra-Tel and its facilities and, if feasible, to purchase the franchise and equipment of Ra-Tel on such terms and conditions as are reasonable.

The Public Staff filed Notice of Intervention on January 4, 1978. By Order issued January 4, 1978, the Commission consolidated the foregoing Petitions for hearing on February 14, 1978, requiring that a copy thereof be served on the Respondent, Lynwood Williams, owner of the remaining 50% of Ra-Tel stock, and copies be provided to each existing subscriber of Ra-Tel.

Upon Motion of Counsel for Coastal Carolina Communications, Inc., the hearing was continued until February 28, 1978.

The matter came on for hearing with all parties present: Respondent represented himself; Petitioners were represented by counsel. Mr. Williams, who testified at the outset, denied having any control over Ra-Tel, except for owning certain properties, and stated that he was not opposed to the granting of the relief sought in the Petitions.

The hearing thereupon was recessed, and the Petitioner and Respondent returned with the following stipulation.

"The first provision of that stipulation is that any property which is in the exclusive possession of Mr. Williams, including any radios, parts or other material, whether previously owned by Mr. Williams, Ra-Tel Corporation or the other stockholders, shall become the exclusive property of Mr. Williams, with the exception that any corporate records that are still in existence in Mr. Williams' possession will be delivered within 15 days to Mr. Askew following receipt or issuance of the Commission order. That if Mr. Williams or Mr. Askew are unable to get together within that 15 day period that Mr. Williams, by the 15th day of that period will take the corporate records to the transmitter site and leave them there.

"The second provision is that Mr. Williams agrees to release and quit claim to Ra-Tel Corporation all dial-in facilities as well as whatever interest he may have in the tower [and any equipment located at the tower site] and customer held equipment.

"Additionally, Mr. Williams agrees to transfer back to the corporation his stock interest in Ra-Tel Corporation.

"Mr. Askew assumes all outstanding obligations of Ra-Tel Corporation and agrees to hold Mr. Williams harmless in connection with claim thereto, including the obligation on the lease of the tower site.

"And provision number 3: That Mr. Broadwell and Mr. Askew are agreeable and hereby stipulate to transfer all their interest in Ra-Tel Corporation to Coastal Carolina and that Coastal Carolina agrees to operate and provide adequate radio common carrier services pursuant to the certificate of convenience and necessity previously held by Ra-Tel Corporation.

"That Mr. Williams acknowledges and hereby agrees that he has no claim against Ra-Tel Corporation, Mr. Askew or Coastal Carolina. And that Ra-Tel Corporation, Askew, Broadwell and Coastal Carolina acknowledge they have no claims against Mr. Williams." (Transcript pp. 36-38)

It was also agreed that immediately upon receipt of the Commission's Order in this docket Coastal Carolina would seek FCC approval of the transfer, which Mr. Williams would not oppose.

In connection with the stipulation, the Petitioners moved that they be granted temporary operating authority pending issuance of a final Order. Such authority was granted by Order of the Commission issued March 1, 1978.

Also testifying at the hearing were Leon Powell, an employee of the Johnston County Health Department, which uses facilities of Ra-Tel, and P. Hutson Moody, Jr., President of Coastal Carolina Communications, Inc.

Mr. Powell described recent service problems regarding the system and expressed the hope that an agreement between the parties would soon be reached. Mr. Moody described his corporation's experience in the radio common carrier field and his plans for upgrading the Smithfield area operations.

Based upon the testimony of the foregoing witnesses, the stipulation entered into at the hearing, and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That Ra-Tel Company, Inc., is a North Carolina corporation and the holder of Certificate No. P-92 issued by this Commission for operations as a radio common carrier in the Selma, North Carolina, area.

2. That the stock of Ra-Tel is held as follows: 50% by Lynwood Williams, 25% by John B. Askew, and 25% by Wilson Jiggs Broadwell.

3. That a stockholders' dispute over operational control of Ra-Tel has been deadlocked due to the percentage distribution of ownership.

4. That as a result of said dispute Ra-Tel has not provided adequate service to the public.

5. That Coastal Carolina Communications, Inc., is a North Carolina corporation and the holder of Certificate No. P-126 issued by this Commission for operation as a radio common carrier in other areas.

6. That the principal stockholders of Coastal Carolina are P. Hutson Moody, Jr., and John R. Askew.

7. That with the approval of the nonoperational stockholders of Ra-Tel, Coastal Carolina is ready, willing, and able to provide radio common carrier service under the franchise formerly granted to Ra-Tel.

8. That the stockholders of Ra-Tel have entered into a stipulation, set forth above, regarding their interests in the corporation and its property.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

All of the evidence in this matter indicates that the transfer of Certificate No. P-92 is justified by the public convenience and necessity. The evidence further indicates that not only the public interest but also the interests of the individual parties will benefit from the agreement which is part of the record herein and from a transfer of Certificate No. P-92 pursuant thereto. The Hearing Examiner therefore concludes that the franchise represented by Certificate No. P-92 should be transferred from Ra-Tel Company, Inc., to Coastal Carolina Communications, Inc., upon the terms and conditions set forth in the stipulation of the parties.

IT IS, THEREFORE, ORDERED as follows:

1. That radio common carrier Certificate No. P-92, and all rights and obligations associated therewith, be, and is hereby, transferred from Ra-Tel Company, Inc., to Coastal Carolina Communications, Inc., pursuant to the terms and conditions contained in the stipulation set forth above and incorporated herein by reference.

2. That Coastal Carolina Communications, Inc., file, within 30 days of the effective date of this Order, a report of compliance with the stipulation entered into the record herein.

3. That Coastal Carolina Communications, Inc., comply with all rules and regulations of this Commission with respect to radio common carrier operations.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of May, 1978.

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

DOCKET NO. P-40, SUB 146

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Merger of Norfolk Carolina Telephone Company and Va Tel Corp., a Wholly-Owned Subsidiary of United Telecommunications, Inc.	) ORDER) APPROVING) MERGER

BY THE COMMISSION: On October 27, 1977, Norfolk Carolina Telephone Company (Norfolk Carolina) filed a Petition with this Commission seeking authorization for a merger whereby Va Tel Corp. (VA Tel), a wholly-owned subsidiary of United Telecommunications, Inc. (United), would be merged into Norfolk Carolina, with the result that Norfolk Carolina would be the surviving corporation, United would become the owner of all the outstanding Common Stock of Norfolk Carolina, and former holders of Norfolk Carolina's Common Stock would receive 1.1 shares of United Common Stock for each share of Norfolk Carolina Common Stock formerly held.

The Commission has given consideration to the Petition, to the Schedules and Exhibits attached thereto and supplied in supplemental filings, and to the Affidavit of R.M. Alden, President of United. The Commission having further considered its official records, documents and reports on file makes the following

FINDINGS OF FACT

1. Norfolk Carolina is a public service company incorporated under the laws of the Commonwealth of Virginia, duly domesticated in North Carolina, and is engaged in the ownership and operation of facilities for telephone communication. It serves approximately 41,000 telephones in eastern North Carolina and approximately 12,600 telephones in the Cities of Chesapeake and Virginia Beach, Virginia. Norfolk Carolina is regulated by the Federal Communications Commission, the State Corporation Commission of Virginia and by this Commission.

2. Va Tel is a public service company incorporated in Virginia and is a wholly-owned subsidiary of United. Va Tel was created for the sole purpose of engaging in the merger with Norfolk Carolina.

3. United is a Kansas corporation and is a holding company owning substantial interests in a number of telephone operating companies throughout the United States, including other systems in the State of North Carolina.

4. By its Petition, Norfolk Carolina seeks approval of the merger of Va Tel into Norfolk Carolina and of the transactions associated therewith, as set forth in the "Plan of Reorganization and Agreement of Merger" dated October 3, 1977, attached to the Petition as Schedule A and the "Plan of Merger of Va Tel Corp. into Norfolk Carolina Telephone Company," attached to the Petition as Exhibit 1 to Schedule A. Consummation of the merger is contingent upon approval by this Commission, the State Corporation Commission of Virginia (which approval has been granted), and the Federal Communications Commission, as well as the affirmative vote of the holders of more than 2/3 of the Common Stock of Norfolk Carolina. A special meeting of stockholders of Norfolk Carolina has been called for Tuesday, February 7, 1978, to consider and act upon the Plan of Merger.

5. On January 9, 1978, the record date for the aforementioned stockholders' meeting, Norfolk Carolina had the following shares outstanding:

Common	780,288
6% Preferred	8,500
11-1/2% Preferred	15,000
12% Preferred	10,000

Upon effectuation of the merger, as more fully described in the Plan of Merger, United will become the owner of all 780,288 shares of Norfolk Carolina Common Stock, for which shares United will issue to the present holders of Norfolk Carolina Common Stock shares of the Common Stock of United at the rate of 1.1 shares of United Common for each share of Norfolk Carolina Common. Ownership of Norfolk Carolina's Preferred Stock will not be affected by the proposed merger.

6. In the period from late May through August of 1977, several offers to acquire all of Norfolk Carolina's Common Stock in tax-free exchanges of stock were made by Continental, United and Central Telephone and Utilities Corporation ("Central"). The Norfolk Carolina Board of Directors initially accepted in principle an offer by United. This offer was withdrawn after Norfolk Carolina communicated to United certain downward adjustments in toll settlements. A revised United offer subsequently was accepted in principle by the Norfolk Carolina Board. After this acceptance, Continental reinstated an earlier offer. On August 31, 1977, a meeting of the Board was convened to review United's and Continental's proposals. Based on the respective closing prices of $20-3/4 and $16-3/8 of a share of Common Stock of United and Continental on August 30, 1977, the dollar value of United's 1.1 to 1 offer was $22.83 and of Continental's 1.4 to 1 offer was $22.93. At that meeting the Board, among other things, reviewed various statistical data as to United and Continental. It also considered the degree of difficulty and the length of time which might be required to obtain necessary governmental approvals for each proposed merger and the possible effect

of any material delay on Norfolk Carolina. After consideration of the relevant matters the Board determined that United's offer remained in the best interests of its Stockholders and voted to reaffirm its earlier acceptance of this offer.

7. Wheat, First Securities, Inc., and Moseley, Hallgarten & Estabrook, Inc., have acted as financial advisors to Norfolk Carolina and have advised the Board of Directors of Norfolk Carolina that, in their opinion, the ratio of exchange of 1.1 shares of United Common Stock for each share of Norfolk Carolina Common Stock is fair and equitable to the Common Stockholders of Norfolk Carolina from a financial point of view. A copy of their opinion appears as Annex IV in the Proxy Statement and Prospectus provided to the Commission.

8. Merger Effect on Norfolk Carolina Customers - The more significant area of concern to the Commission relating to the proposed Merger is the effect it may have on the present and future customers which will be served by the surviving company, Norfolk Carolina.

The recent past and current quality of service rendered by Norfolk Carolina has not been completely satisfactory per Commission standards. The level of the quality of this service was recognized in the last general rate case of Norfolk Carolina (Docket No. P-40, Sub 141, Order dated March 1, 1977) and has not at this date been completely corrected.

In contrast to this level of service, United Telephone Company of the Carolinas and Carolina Telephone and Telegraph Co., both owned by United Telecommunications, the company desiring to acquire Norfolk Carolina, have acceptable and satisfactory levels of service.

Norfolk Carolina in recent years has experienced difficulty in selling securities both debt and equity in quantities and at reasonable cost levels needed to finance its upgrading and expansion needs. This problem has been partially caused by the size of the Company and the fact that the Company's common equity securities have not been widely held resulting in a very narrow and thin market exposure. This situation should be improved after the proposed Merger, United the parent will supply the equity capital and debt financing should be more readily available with the assistance of the parent company.

While no changes in local management is planned immediately, overall operating policies and procedures will be shaped by corporate personnel which formulates these items for all of United's affiliates. As per R.M. Alden's affidavit dated December 3, 1977, he indicates that over a period of two years, "management functions, above the first level, and particularly treasury and accounting functions, will be moved to United's North Carolina subsidiary Carolina

Telephone and Telegraph Co. located in Tarboro, N.C. Day-to-day management policies will be substantially those of Carolina Tel and Tel." Also, Mr. Alden commits United to continue the ongoing service improvement program of Norfolk Carolina.

Mr. Alden, President of United, also states in the affidavit that Norfolk Carolina would utilize the services of United Systems Service, Inc., a wholly-owned subsidiary of United, which provides certain managerial, financial, legal, technical, professional and miscellaneous services to United's operating subsidiaries and to its regional groups. These services should improve the operations and quality of service to customers of Norfolk Carolina. The services would be rendered on a cost basis. Other subsidiaries of United may provide materials and supplies to Norfolk Carolina at or below competitive market prices.

CONCLUSIONS OF LAW

1. G.S. 62-110 and G.S. 62-111 of the Public Utilities Law of North Carolina require authorization of the Commission for the merger of public utilities corporations furnishing service in North Carolina.

2. The Commission concludes that from a review and study of the Application, its supporting data and other information in the Commission's files, that the merger and transactions proposed in the Plan of Merger are justified by the public convenience and necessity. Further, the Commission concludes that the transactions proposed in the Plan of Merger and as set forth in the Petition and in the accompanying Schedules and Exhibits are:

(a) for lawful objects within the corporate purposes of Norfolk Carolina;

(b) compatible with the public interest;

(c) necessary and appropriate and are consistent with the performance by Norfolk Carolina of its service to the public in North Carolina; and

(d) will not impair the ability of Norfolk Carolina to perform its service in North Carolina.

IT IS, THEREFORE, ORDERED that Norfolk Carolina Telephone Company be permitted and is hereby authorized to do the following:

1. To consummate the plan of Reorganization and Agreement of Merger as contained in the Application in Docket No. P-40, Sub 146, filed on October 27, 1977, by virtue of which United will acquire all of the outstanding voting Common Stock of Norfolk Carolina.

2. To enter into a Service Agreement with United System Service, Inc., a wholly-owned subsidiary of United and to purchase materials and supplies from the Supply Division of North Electric, another wholly-owned subsidiary of United. The purchases of these services are to be at cost and the materials and supplies at or below the price regularly available on the open market from a reliable source.

3. To file in duplicate with this Commission, within a period of thirty (30) days following the completion of the transactions authorized herein, a verified report of actions taken and transactions consummated pursuant to the authority herein granted, such report to include copies of the journal entries to be entered on Norfolk Carolina's general books of account recording the transactions in connection with said Agreement.

4. Nothing herein contained shall be construed to imply any guarantee or obligation as to stock, debentures, warrants, bonds, notes or interest thereon, on the part of the State of North Carolina.

5. That this proceeding be and the same is continued on the docket of the Commission without day, for the purpose of receiving the report as hereinabove provided and nothing in this Order shall be construed to deprive this Commission of its regulatory authority under law.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of January, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-10, SUB 369

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Central Telephone Company for) ORDER SETTING
an Adjustment of its Rates and Charges in) RATES AND
its Service Area within North Carolina) CHARGES

HEARD IN: The City Council Chambers, City Hall, Hickory, North Carolina, on October 27, 1977, and the Commission Hearing Room, Dobbs Building, Salisbury Street, Raleigh, North Carolina, on October 31, 1977, through November 2, 1977

BEFORE: Commissioner Robert Fischbach, Presiding, and Commissioners Sarah Lindsay Tate and Edward B. Hipp

APPEARANCES:

For the Applicant:

James M. Kimzey, Kimzey and Smith, Attorneys at Law, Wachovia Bank Building, Box 150, Raleigh, North Carolina 27602

Donald W. Glaves, Ross, Hardies and O'Keefe, One IBM Plaza 3100, Chicago, Illinois 60062

For the Intervenors:

Jane S. Atkins and Paul L. Lassiter, Assistant Staff Attorneys, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On June 20, 1977, Central Telephone Company (hereinafter sometimes referred to as Central, the Applicant, or the Company) filed an application with the Commission for authority to adjust and increase its rates and charges for telephone service in North Carolina to become effective on service rendered on and after July 22, 1977. The Applicant filed testimony and exhibits along with and in support of its application.

By Order issued July 19, 1977, the Commission set the matter for investigation, declared the matter to be a general rate case, required public notice, suspended the proposed rates, and set the matter for hearing for October 11, 1977, at 9:00 a.m. in the City Council Chamber, City Hall, Hickory, North Carolina, and for October 12 through 14, 1977, at 10:00 a.m. in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina. The Order also established the test period for the proceeding as the 12-month period ended December 31, 1976.

By Motion of August 18, 1977, the Applicant moved that Donald W. Glaves and Brian O'Connor of Ross, Hardies, O'Keefe, Babcock and Parsons, a law firm in Chicago, Illinois, be permitted to appear on behalf of the Company as its attorneys in the above docket. On September 9, 1977, the Public Staff filed Notice of Intervention. By Order of September 12, 1977, the Commission allowed Donald W. Glaves and Brian O'Connor to appear and represent Central Telephone Company in this proceeding. Also, by Order of September 12, 1977, the Commission recognized the intervention of the Public Staff. On September 23, 1977, Central Telephone Company filed corrections to its rate filing.

By Order of October 6, 1977, the Commission rescheduled the hearings originally set for October 11, 12, and 14, 1977, for October 27, 1977, at 2:00 p.m. in the City Council Chamber of the City Hall in Hickory, North Carolina, and for October 31, 1977, at 2:00 p.m. in the Commission Hearing

Room, Dobbs Building, Raleigh, North Carolina. Commissioner Fischbach and Commissioner Tate along with the attorneys for the Company and the Public Staff were present in the City Council Chamber of the City Hall in Hickory, North Carolina, on October 11, 1977, at 9:00 a.m. in the event public witnesses appeared to testify. No one who wished to present testimony was present on October 11, 1977.

On October 27, 1977, at 2:00 p.m., the public hearing was held in Hickory. Several members of the public presented testimony on service, extended area service (EAS), and the rate increase: Samuel Smith, Mrs. Ann Falls, George Murphy, Don Robbins, Edwin Beam, A. W. Huffman, Jr., Tom Cox, J. W. Woodside, Calvin Cano, Helen Buchanan, Bob Hayes, R. W. Brantley, Philip Mosteller, and A. W. Wilkerson. On October 31, 1977, at 2:00 p.m. in the Commission Hearing Room in the Dobbs Building, Raleigh, North Carolina, the record was opened for the testimony of additional public witnesses and for the Applicant to proceed with its case. Tom Cox, representative of the North Carolina Businessmen for Fair and Just Telephone Rates, appeared at both the Hickory and Raleigh hearings. He presented testimony on rate of return and the rate structure.

The Applicant presented the testimony and exhibits of the following witnesses: Robert S. Stich, Professor of Finance and Business Policy at the University of Missouri, testified concerning cost of capital and rate of return; Thomas A. Owens, Jr., Vice President and Chief Financial Officer of Central Telephone and Utilities Corporation, testified concerning cost of capital and rate of return; Lyle C. Roberts, Senior Separations Analyst with the Economic Evaluation Organization of Central Telephone Company, testified concerning separation studies and toll settlements for Central Telephone Company; Steven M. Bailor, Director of Accounting of Central Telephone Company, testified to accounting revenue, expense and rate base adjustments; Ralph E. Smith, Supervisor of the Depreciation Department in the Economic Evaluation Organization of Central Telephone Company, testified concerning the fair value of the property of Central Telephone Company; Richard M. Smith, Vice President of Centel Service Company (Centel), testified concerning the relationship between Centel Service Company and the Applicant and the services which Centel Service Company provides the Applicant; Donald K. Roberton, North Carolina Division Engineering Manager of Central Telephone Company, testified to the service provided by the Applicant; Larry D. Houck, General Rate and Tariff Supervisor for Central Telephone Company, testified concerning the proposed rate structure; Robert W. Nichols, Vice President and Division Manager of Central Telephone Company, North Carolina Operations, testified to the Company's operations and plans for future growth; and, on redirect, Steven Vanderwoude, Vice President - Regulatory Division for Central Telephone Company, testified concerning FCC registration programs and extension rate restructuring.

The Public Staff presented the testimony of the following witnesses: James S. Compton, Telephone Engineer, testified concerning the quality of service provided by the Applicant; Benjamin R. Turner, Telephone Engineer, testified in regard to his investigation of the operation of the Applicant concerning its efficiency in providing service; Hugh L. Gerringer, Telephone Engineer, testified concerning toll settlements and separations and EAS matters; William J. Willis, Jr., Rate and Tariff Engineer, testified regarding extension rates and ratios between different classes of basic exchange customers; Millard N. Carpenter, III, Rate Analyst, testified concerning service charges and other rate matters; William E. Carter, Jr., Assistant Director of Accounting for Electric and Telephone, testified regarding accounting adjustments and transactions between Centel Service Company and the Applicant; and Edwin A. Rosenberg, Economist, testified concerning rate of return and cost of capital.

At the conclusion of the hearing the parties presented oral argument to the Commission.

Based on the foregoing, the application, the testimony and exhibits received in evidence at the hearing, and the entire record in this proceeding, the Commission now makes the following

FINDINGS OF FACT

1. That Central 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 increases in rates and charges sought by Central Telephone Company in its application would have produced approximately $2,996,992 in additional annual revenues based on test-period operations.

3. That the last rate increase approved for Central Telephone Company became effective February 3, 1976.

4. That the overall quality of service provided by Central Telephone Company to its customers is adequate.

5. That the reasonable original cost of Central Telephone Company's net investment in its North Carolina intrastate telephone plant in service is $108,688,970. Such amount is composed of telephone plant in service of $132,198,358 less excess profits on equipment and supplies purchased from Central Telephone Company's affiliated supplier, Centel Service Company of $1,155,000, the accumulated provision for depreciation of $22,224,779, and customer deposits of $129,609.

6. That the reasonable allowance for working capital is $904,236.

7. That the reasonable replacement cost less depreciation of Central's plant used and useful in providing intrastate telephone service in North Carolina is $160,968,112.

8. That the fair value of Central's plant used and useful in providing intrastate telephone service in North Carolina is derived by giving 50% weighting to the reasonable original cost less depreciation of Central's plant in service and 50% weighting to the trended original cost less depreciation of Central's utility plant. By this method, using the depreciated original cost of $108,688,970 and the depreciated replacement cost of $160,968,112, the Commission finds that the fair value of Central's utility plant devoted to intrastate telephone service in North Carolina is $134,828,541.

9. That the fair value of Central's plant in service to its customers within the State of North Carolina at the end of the test year of $134,828,541 plus the reasonable allowance for working capital of $904,236 yields a reasonable fair value of Central's property in service to North Carolina customers of $135,732,777.

10. That the end-of-test-period intrastate toll revenues for Central are $12,862,611, which includes the revenue impact of the Commission's findings in Docket No. P-100, Sub 45, Investigation of Intrastate Long Distance, WATS, and Interexchange Private Line Rates of all telephone companies under the jurisdiction of the North Carolina Utilities Commission.

11. That the approximate gross revenues net of uncollectibles for Central for the test year are $42,071,010 under present rates and under Company proposed rates would have been $45,065,000.

12. That the level of Central's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $32,303,908, which includes the amount of $5,915,592 for actual investment currently consumed through reasonable actual depreciation.

13. That the appropriate original cost capital structure on which to base the rates charged the North Carolina intrastate customers of Central Telephone Company consists of 37.99% debt, 4.82% preferred stock, 45.51% common equity and 11.68% cost-free capital.

14. That the embedded cost rates for the debt and preferred stock components of capital are 7.68% and 6.54%, respectively.

15. That the fair rate of return on the fair value of the Company's property used and useful in the service of the intrastate ratepayers of North Carolina is 7.30%.

16. That in addition to the toll revenues determined in Docket No. P-100, Sub. 45, Central should be allowed an increase in local service revenues of $308,017 in order to have a reasonable opportunity through prudent and efficient management to earn a 7.30% return on the fair value of its property in service to North Carolina customers.

17. That Central's proposal to recover the revenue requirements for extension service for existing inside wiring through basic rates rather than extension rates is unjust and unreasonable.

18. That a repression factor should not be used in the calculation of additional service charge revenue.

19. That rates, charges, and regulations to be filed pursuant to this Order in accordance with the guidelines contained herein, which will produce additional annual revenues of $308,017, will be just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-3

The evidence for Findings of Fact Nos. 1-3 is found in 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 are not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence as to the quality of telephone service provided by Central Telephone Company which appears in this record consists of testimony of several public witnesses, Company witnesses Nichols and Roberton, and Public Staff witness Compton.

Public witness Smith stated that his service is good. Public witness Murphy stated that his service is excellent.

Public witness Robbins, who is the town attorney for the Towns of Granite Falls and Rhodhiss, stated that he has frequent service problems. These include busy signals before completing dialing and getting a second dial tone before completing dialing. Other problems are dialing operator-assisted calls (e.g., person to person), giving billing information, and later having another operator ask what number he is calling from and completing a call, hanging up, and not getting a dial tone for the next call. This last problem happened the day before he testified, and he had to make two long distance calls in order to report his phone out of order.

Public witness Woodside said his service had been unsatisfactory for four years but has been excellent in the last three months after his line (drop) was replaced. He also complained of having to make four to six attempts to complete DDD calls.

Public witnesses Cano and Brantley stated that they have good service.

Company witness Nichols stated that it is Central's obligation to furnish and maintain adequate and efficient service to its customers. He indicated that the Company has met with many of the public witnesses who had complaints in the public hearing in Hickory and will meet with the remainder as time permits.

Company witness Roberton presented exhibits on installation service results, held orders for primary and regrade service, customer trouble reports, dial central office service index, and operator speed of answer. He also discussed facility shortages resulting from the removal of zone charges and the attendant steep increase in demand. Mr. Roberton stated that Central has improved its performance in troubles per 100 stations since the last rate case. He indicated that only five of the 20 exchanges still exceed the 6% Commission objective. On cross-examination, witness Roberton related what Central has done to correct problem areas shown in Compton's prefiled testimony from the Public Staff. The DDD failure rate in exchanges outside Hickory will be alleviated by the installation of new equipment about March 1978. The long answer time for Asheboro was due to lightning damage and negotiations are in progress for improvements for Danville with the connecting company. Other problems in Durham and Charlotte regarding answer time are being corrected.

Public Staff witness Compton presented the results of the Public Staff's investigation of the quality of service provided by Central. The evidence offered by the Public Staff indicates that Central's service is adequate. However, the Public Staff's evaluation shows that some improvement should be made in the following specific areas:

1. Intraoffice Dial Failures: Yanceyville.

2. Interoffice (EAS) Dial Failures: Asheboro, Seagrove, Eden (Draper), Mocksville, Pilot Mountain, Valdese, and Hickory (Springs Road).

3. DDD Dial Failures: Valdese, Granite Falls, Bethlehem, Catawba, Hickory (Springs Road), and Sherrills Ford.

4. EAS Transmission Loss: Elkin, Yadkinville, and North Wilkesboro.

5. DDD Transmission Loss: Ramseur, Pilot Mountain, and Boonville.

6. Troubles Per 100 Stations: Dobson and Danbury.

7. Out of Service Trouble Reports Received Before 5:00 p.m. - and Carried Until the Next Day Elkin District.

Public Staff witness Turner testified concerning the Public Staff's review and evaluation of central office and outside plant engineering, plant construction, operating expenses, gross and net plant investment, and held orders for regraded service. The purpose of Mr. Turner's testimony was to provide an evaluation of the Company's efficiency in providing the subscriber with good quality service at a reasonable cost.

The Commission concludes that the operations of Central Telephone Company are reasonably managed and that the plant investment is sufficient to provide telephone service. The Commission also concludes that Central's service is adequate but that both the Company and the Public Staff should follow up on the trouble areas noted by Mr. Compton.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Commission will now analyze the testimony and exhibits presented by Company witness Bailor and Public Staff witness Carter concerning the original cost of Central's intrastate telephone plant in service. The following chart summarizes the amount which each of these witnesses contends is proper for this item:

Item	Company Witness Bailor	Public Staff Witness Carter
Investment in telephone plant in service	$132,198,358	$132,198,358
Less: Accumulated provision for depreciation	22,224,779	22,224,779
Unamortized investment tax credits - pre-1971		341,789
Accumulated deferred income taxes		12,462,318
Customer deposits		129,609
Excess profits on plant purchased from Centel Service Company		1,155,000
Net investment in telephone plant in service	$109,973,579	$ 95,884,863

As the above chart shows, both witnesses agree that the original cost of the intrastate telephone plant in service is $132,198,358. Both witnesses also agree that the depreciation reserve in the amount of $22,224,779 should be included as a deduction in calculating the net investment in telephone plant in service. The $14,088,716 difference between Company witness Bailor's net investment in telephone plant in service of $109,973,579 and Public Staff witness Carter's net investment in telephone plant in service of $95,884,863 results from the fact that Public Staff witness Carter deducted unamortized investment tax credits - pre-1971, accumulated deferred income taxes, customer deposits, and the excess profits on plant purchased by Central Telephone Company from its affiliated supplier, Centel Service Company. Public Staff witness Carter testified that Company witness Bailor included unamortized investment tax credits - pre-1971 and accumulated deferred income taxes as cost-free capital in determining his capital structure and overall cost of capital. Witness Carter testified that if he had included in the capital structure at zero cost these cost-free items, and had allocated the original cost net investment to each component of the capital structure, it would have had the effect of assigning a portion of this cost-free capital to construction work in progress and other nonrate base assets, primarily investments in subsidiaries. Under Company witness Bailor's method, Mr. Carter stated, the ratepayers do not receive the full benefit of capital which they have supplied the Company. By deducting these items from the rate base, the ratepayers will receive the full benefit of the capital which they have supplied the Company. Witness Carter also described how such cost-free capital originates. He testified that the unamortized investment tax credits were realized under the Revenue Act of 1962, which provided for a reduction in the income tax liability of utilities to the extent of 3% of the cost of qualifying property acquired during a taxable year, and that this Commission issued a general rule-making Order which permitted utilities to follow what is commonly referred to as a "Normalization Accounting" procedure for investment tax credits. Under this accounting procedure, the Company records a Federal income tax expense greater than the amount of tax actually paid. This difference between book income taxes and actual income taxes is recorded as a corresponding credit in the balance sheet account entitled unamortized investment tax credits. Such tax credit is deferred and amortized as a reduction of Federal income tax expense over an appropriate period of time. Witness Carter stated that the balance of this unamortized investment tax credit is a source of cost-free capital which has been provided by the ratepayers and as such should be deducted in calculating the original cost net investment. He further testified that accumulated deferred income taxes result from normalizing the tax effect of accelerated depreciation and intercompany profits. Again, by use of the "Normalization Accounting" procedure the Company reflects, for financial reporting and rate-making purposes, a greater Federal income tax expense than it actually incurs. For example, the Company uses an

accelerated method of depreciation to calculate the depreciation deduction in determining its actual income tax liability but calculates income tax expense for rate-making purposes by using a depreciation deduction based on the straight-line method of depreciation. Thus, the income tax expense for rate-making purposes is calculated without giving effect to the accelerated depreciation. The excess of the normalized tax expense based on straight-line depreciation over the actual tax liability based on accelerated depreciation is recorded in the account entitled "Accumulated Deferred Income Taxes - Accelerated Depreciation." Until such time as the actual tax liability based on accelerated depreciation exceeds the book income tax expense based on straight-line depreciation, the Company has use of this cost-free capital. Witness Carter stated that, in substance, the ratepayer has paid in through the rate structure a cost that the Company has not incurred and will not incur until such time as straight-line book depreciation exceeds tax depreciation. He stated that accumulated deferred income taxes represent a source of cost-free capital and as such should be deducted in calculating the original cost net investment.

In its "Memorandum of Law," filed with the Commission's Chief Clerk on January 4, 1978, Central, on page 5, states as follows:

"As to the amount of cost-free capital which should be reflected in capital structure, Centel agrees with the Public Staff that it is appropriate to include the cost-free capital generated by the Company's North Carolina operations (as shown on Carter Exhibit 1, Schedule 2, line 7)."

In its January 4, 1978, filing, Central also filed a series of schedules captioned "Reconciliation of Differences Between Public Staff and Company." On Schedule 3 of this reconciliation, Central sets forth the methodology it would have the Commission employ in developing the appropriate capital structure, inclusive of cost-free capital, for use in this proceeding.

Having very carefully examined the aforementioned submissions of Central, the Commission concludes, with regard to cost-free capital in the forms of deferred income taxes and unamortized pre-1971 investment tax credit, that the revenue requirements of the Company will be the same whether the cost-free capital is included in the capital structure at zero cost or deducted from the rate base.

Cost-free capital has historically been considered a component of the capital structure in North Carolina. So long as that procedure does not work to the detriment of North Carolina consumers, and the Commission in this case has found that it does not, the Commission believes that it is appropriate to continue this practice.

The Commission, therefore, concludes that accumulated deferred income taxes and unamortized investment tax credit pre-1971 should be included in the capital structure at zero cost for purposes of setting rates in this proceeding.

Public Staff witness Carter testified that he deducted customer deposits because they represent customer-supplied funds. Stating that the Company is entitled and should be permitted to recover its actual interest cost associated with these deposits, he included interest on customer deposits as an operating expense. Witness Carter also stated, however, that failure to deduct customer deposits in determining the original cost net investment will have the effect of permitting the Company to earn the overall rate of return found fair by the Commission on these funds, instead of the lower interest cost actually incurred on customer deposits. Witness Carter further stated that his treatment insures that the Company will recover the actual interest accrued on customer deposits and no more.

The Commission believes Mr. Carter's contentions as stated above, with regard to customer deposits, are valid and that his proposal to deduct customer deposits from the rate base is proper.

The Commission, therefore, concludes that customer deposits should be deducted in determining the Company's original cost net investment in telephone plant in service for purposes of this proceeding.

The last item of difference in the net investment in telephone plant in service presented by the witnesses is an adjustment of $1,155,000 made by Public Staff witness Carter to eliminate excess profits on plant purchased by Central from Centel Service Company.

Company witness Smith and Public Staff witness Carter presented testimony on the transactions between Central Telephone Company and its wholly-owned subsidiary Centel Service Company.

Company witness Smith testified that Centel's pricing policy on its sales to affiliated operating telephone companies is as follows:

> "It is the policy of Centel Service Company to distribute and sell materials to System operating companies at prices which are equal to or less than those which the operating companies would have to pay for the same or comparable material from other reputable and dependable distributors". (Transcript Vol. III, P. 41.)

Company witness Smith stated that Centel Service Company determines the prices it charges by maintaining constant surveillance of prices charged by other distributors of materials sold to independent telephone companies.

"From time to time, as prices fluctuate, Centel Service Company adjusts its prices to assure that the pricing policy previously stated is adhered to on a continuing basis". (Transcript Volume III, P. 41.)

Mr. Smith acknowledged on cross-examination that Centel follows, whenever possible, a policy of tracking the prices charged by Automatic Electric Company to its nonaffiliated customers for telephone equipment and supplies. Mr. Smith also testified that he considered the return on sales ratio to be the only measure of profitability for a distribution company that has any real significance.

Company witness Smith presented no evidence concerning Centel's costs of doing business with its affiliated customers including the North Carolina Division of Central Telephone Company. Public Staff witness Carter made both a preliminary review of the transactions between Centel Service Company and Central Telephone Company and a detailed analysis of certain financial ratios of Centel Service Company in comparison with comparable independent electrical wholesale distributors.

Public Staff witness Carter testified that Centel Service Company is a distributor of telephone equipment and supplies to the affiliated telephone operating companies of Central Telephone and Utilities Corporation, including the North Carolina Division of Central Telephone Company. Centel Service Company has no manufacturing facilities; its only function is to make purchases from various manufacturers of telephone equipment and supplies and resell to the affiliated telephone operating companies. In fact, Centel sells only to its affiliated companies and not to any nonaffiliated companies. Of Centel's total sales in 1976, 53.10% were shipped directly from the manufacturer to the purchasing operating company. In essence, Centel acted as a broker on 53.10% of its total sales in 1976.

Public Staff witness Carter testified that since Central Telephone Company owns 100% of the stock of Centel Service Company, it is necessary to study the transactions between the two in order to determine whether the transactions occurred in arm's-length bargaining in spite of the less than arm's-length relationship which exists between the two parties.

In his study, Public Staff witness Carter first reviewed the dollar volume of sales purchased by Central's North Carolina Division from Centel Service Company. During the eight-year period since Centel began operations (1967-1974) the North Carolina Division of Central made approximately 55.65% of its total purchases of equipment and supplies from Centel. The ratios by year were as follows:

1967	1968	1969	1970	1971	1972	1973	1974
14.15	49.63	53.35	47.91	48.17	59.88	72.95	73.75

Amounts for the years 1975 and 1976 were not available.

Company witness Smith testified on cross-examination that, of the items which Central purchased from a source other than Centel in 1976, the majority were items of central office equipment which Centel Service Company does not sell.

Public Staff witness Carter next reviewed the return on average shareholder equity achieved by Centel Service Company since its inception through 1976. The returns (%) were as follows:

1967	1968	1969	1970	1971
340.73	609.84	114.49	96.18	114.02

1972	1973	1974	1975	1976
88.77	54.68	38.13	21.33	36.69

Then witness Carter performed a comparable earnings test to determine whether the earnings achieved by Centel Service Company were reasonable. This test was performed by comparing the supplier affiliate's earnings on equity to those of other similar supply companies which are not affiliated with a major customer. Since there were no significant unaffiliated wholesalers of only telephone equipment for which financial information was available, Mr. Carter testified that he selected for comparison electrical equipment wholesalers used by Mrs. Nancy Bright of the Commission Staff in her investigation of transactions between Centel Service Company and the North Carolina Division of Central Telephone Company in Docket No. P-10, Sub 351. In addition, Mr. Carter testified that he also included Graybar Electric in his comparison companies. The weighted average earnings on equity for the years 1967 through 1976 for the independent wholesale companies ranged from 6.92% to 14.09%. The weighted average return on equity for Centel Service Company for the years 1967 through 1976 was 157.29% with a high-low range of 846.34% in 1968 and 20.80% in 1975. The year 1975 was a bad year for all companies shown by Mr. Carter. When the earnings for the year 1975 are excluded, the weighted average return on equity for the five independent wholesale companies ranges from 6.97% to 15.06%, and the weighted average for Centel is 172.45%. On the basis of this comparison, the Commission concludes that Centel has been able to achieve a consistently higher return on common equity from sales to its affiliated interests than the independent companies have been able to achieve from sales in the competitive market.

In order to determine if there are any economies of operation accruing to Centel Service Company because it is affiliated with its customers, Mr. Carter analyzed several financial ratios of the five independent wholesalers used in the comparative earnings test and of Centel Service Company. The first ratio was gross margin, which measures the average percentage which the supplier adds to his cost of goods

before sale to his customers. Centel's average markup or gross margin for the years 1967 through 1976 was 16.51% as compared to the margins of the five independents of 14.75%, 15.51%, 21.05%, 22.44%, and 22.48%. The amount of markup included in the price of Centel's merchandise was somewhat less than that of three of the five independents even though Centel's returns on equity were much higher than that of the independents.

Operating expenses as a percentage of sales give a concise view of the percent of net sales dollars which are expended by a firm for selling, administrative, and general expenses. As Mr. Carter testified, Centel's operating expenses as a percentage of sales averaged only 2.50% for the period 1967 through 1976, while the independents' averaged from 10.04% to 15.14% for the same period.

Mr. Carter testified that the five independent wholesalers had average asset turnover ratios of 2.73 to 3.92 during the period studied, while Centel's average asset turnover ratio was 7.14. These figures indicate that Centel requires fewer dollars of asset investment to generate a dollar of sales than do the independent wholesalers.

The sales to average inventory ratio is a measure of the amount of inventory investment required per dollar of sales. Witness Carter testified that in all years except 1970 and 1971 Centel's sales/inventory ratio was not significantly different from that of the independents although a large percentage of its sales are shipped directly from manufacturers to the purchasing telephone operating company.

Witness Carter also testified concerning the ratio of average accounts receivable as a percentage of sales for Centel and the independent wholesalers. A low ratio is more desirable, he stated, since a high accounts receivable balance is costly in terms of billing, collection, and carrying charges. Centel's average accounts receivable/sales ratio was only 2.55 for the study period in comparison to that of the independents, which averaged from a low of 9.49 to a high of 14.28. Centel's only customers are members of the Central Telephone System; therefore, Centel does not encounter the difficulty in collection of receivables which is faced by the independent wholesalers.

Public Staff witness Carter's study of average accounts payable as a percentage of sales indicates that Centel is able to pay its creditors much more rapidly than the comparable independent wholesalers and, thereby, to receive any discounts available for early payment. The rapid collection of receivables would make early payment to creditors possible.

Mr. Carter testified that Centel's inherent operating efficiencies are illustrated by the return on sales and return on equity ratios. Centel's return on sales averaged 5.47% for the seven years 1968 through 1976 as compared to

1.01%, 1.40%, 1.61%, 1.73%, and 2.32% for the independent electrical wholesalers. Since 1967 Centel has averaged 157.29% return on year-end common equity while the independent electrical wholesalers averaged from a low of 6.92% to a high of 14.09%.

Public Staff witness Carter testified that with the exception of sales/inventory, each of the ratios studied tended to show that Centel is able to operate with fewer expenses and a smaller investment than the independent companies. As an affiliate of the Central Telephone System, Centel enjoys a captive market, reduced selling expenses, rapid collection of accounts receivable with no appreciable risk of noncollection, a smaller investment than that of an independent, and reduced handling costs due to the fact that a substantial percentage of the operating telephone company's purchases are shipped direct by the manufacturer and not handled by the affiliated supplier.

Mr. Carter further testified that the effect of Centel's selling at "market" prices is to sell at a price designed to cover operating expenses at a level paid by a nonaffiliated distributor. Since Centel Service Company enjoys reduced operating expenses due to its affiliation with its customers, selling at "market" results in Centel's achieving earnings far in excess of the independent wholesalers.

Mr. Carter stated that limiting the earnings of Centel Service Company to the highest return achieved during the period by the comparable independent wholesale distributors would in effect recognize the economies of operation which Centel enjoys because of its affiliation with its market and would flow a part of these economies back to the operating telephone companies which make up that market. The effect of limiting Centel to the return earned by nonaffiliated distributors is to recognize Centel's actual level of expense and to allow as the cost of equity the highest average return earned by the comparable independent distributors.

Mr. Carter stated that, if a 15% return on common equity (the highest return earned by the independent electric wholesalers when the earnings for the year 1975 were excluded) is determined to be a fair and reasonable rate of return for Centel Service Company to earn on sales to Central Telephone Company, there would exist in the plant accounts of the North Carolina Division of Central Telephone Company as of December 31, 1976, $1,370,000 of excess profits net of depreciation, $1,155,000 of which is related to the Company's North Carolina intrastate operations.

Based on the evidence presented by the witnesses, the Commission concludes that the transfer prices paid for telephone equipment and supplies by the North Carolina Division of Central Telephone Company to the supply affiliate of Central Telephone Company (Centel Service Company) have been unreasonable and excessive to the extent

they produce a return on the common equity of the supply affiliate in excess of 15%.

The Commission does not agree with Company witness Smith that the only appropriate measure of reasonableness of Centel's earnings is its return on sales ratio. The Commission is of the opinion that an investor in a company is primarily concerned with the percentage return earned on his investment; therefore, the Commission believes that the percentage return on equity is the most appropriate ratio to be utilized in measuring Centel's profitability.

The Commission concludes that Centel Service Company also enjoys economies of operation which are a result of its close affiliation with its customers. Further, the policy of tracking prices charged by Automatic Electric Company to nonaffiliated independent telephone companies has resulted in Centel Service Company's recovering costs for selling, general, and administrative expenses from the North Carolina Division of Central Telephone Company which it has not actually incurred. The reduced operating cost of the supply company occurs as a result of its affiliation with its market, the operating telephone companies of the Central System. The Commission believes it to be fair and reasonable to permit the supply affiliate to include in transfer prices charged the North Carolina Division of Central Telephone Company a level of profit equal to that achieved on sales in the competitive market by comparable electrical wholesale distributors.

The Commission concludes that the Applicant's net investment in intrastate telephone plant in service should be adjusted to exclude "excess profits" surviving in the net plant accounts at December 31, 1976, in the amount of $1,155,000. This adjustment is based on limiting the earnings of the supply affiliate to the 15% return on common equity which is the highest return achieved in the competitive market by any of the comparable electrical wholesale suppliers when the earnings for the year 1975 are excluded.

On cross-examination Public Staff witness Carter was asked if it would not be proper to eliminate that portion of deferred taxes attributable to the "excess profits" when deducting this cost-free capital item from the original cost net investment. Mr. Carter responded and the Commission concludes that, based on the method which witness Carter used to calculate the excess profits amount, there is no reason to make an adjustment to cost-free capital. Mr. Carter made the calculation of the excess profits based on the net profit (after income taxes) of the supply affiliate. Therefore, the full amount of income tax expense was left in the sales price of the equipment and supplies purchased by the operating telephone company, and it is proper that the full amount of these taxes be passed back to the telephone operating company and treated as deferred taxes and cost-free capital.

Based on all the testimony and evidence in this case, the Commission concludes that the reasonable original cost net investment of Central's telephone plant in service is $108,688,970.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Company witness Bailor and Public Staff witness Carter each presented a different amount for the working capital allowance as shown by the chart below:

	Company Witness Bailor (a)	Public Staff Witness Carter (b)
Cash, including compensating bank balances	$1,901,023	$ 922,221
Materials and supplies	872,707	872,707
Average prepayments	43,387	-
Average tax accruals	(892,529)	-
Customer deposits	(125,653)	-
Customer funds advanced through operations	-	(860,711)
Accounts payable - plant in service	-	(29,981)
Total	$1,798,935	$ 904,236

The difference of $894,699 in the two amounts of working capital presented by each witness results from the different methods employed by each witness in computing the working capital allowance. Company witness Bailor used the traditional formula method to calculate working capital of $1,798,935 in which he included 1/12 of operation and maintenance expenses and compensating bank balances as a cash allowance, materials and supplies, average prepayments less average tax accruals and customer deposits. Mr. Bailor did not offer any testimony concerning his reasons for using this particular method of determining his working capital allowance.

Public Staff witness Carter testified that he determined his working capital allowance of $904,236 by including materials and supplies and cash consisting of the North Carolina intrastate portion of average daily bank balances consisting in part of compensating balances maintained by the Company in various banks. He reduced the cash and materials and supplies amounts by "customer funds advanced through operations" and by the accounts payable associated with plant in service at December 31, 1976. Mr. Carter

stated that customer funds advanced through operations were derived from a lead-lag study which measures the funds furnished by either customers or investors, as the case may be, to meet the day-to-day cost of providing service to the customers. The study is made by calculating an average revenue lag interval and an average cost lag interval. If the study shows revenues are collected after costs are paid, the investor will have to furnish some funds to meet these costs. On the other hand, if revenues are collected before the costs are paid, the Company has available customer funds which may be used to finance plant, materials and supplies, and cash balances on a continuing basis. Witness Carter prepared a lead-lag study from information provided by the Company. He stated that the study in this particular case shows that intrastate revenues are collected on an average of 7.58 days before costs are paid. (The intrastate revenue lag is 21.76 days and the cost lag is 29.34 days, or a net of 7.58 days.) This indicates that the Company has 7.58 days of customer funds which it may use on a continuing basis to finance a portion of the fixed and current investment items shown on the balance sheet. In other words, the Company incurs no cost for funds obtained from customers as a result of the customer's paying the cost of service an average of 7.58 days before it is paid by the Company. Mr. Carter testified that he believes it would be inequitable and unfair to permit the Company to earn a return on funds obtained from the customers at zero cost; therefore, he deducted customer funds advanced through operations in calculating his working capital allowance. Mr. Carter stated that he further reduced the working capital allowance by deducting accounts payable related to plant in service because this item represents a source of working capital not supplied by the Company's debt and equity investors and the accounts payable related to plant in service was not given consideration in the lead-lag study.

Company witness Bailor offered rebuttal testimony stating that the Company had made an error in compiling the lead-lag study by including interest expense, which resulted in its being treated as an operating expense. He stated that interest expense must be paid from funds provided from net operating income and its inclusion in the lead-lag study further reduces the rate base and prevents the Company from earning a rate of return sufficient to cover the embedded cost of debt in the capital structure.

Public Staff witness Carter testified on surrebuttal that when rates were set in the last Central Telephone Company case they were set to cover Central's level of operating expenses plus its capital cost. Included in capital costs were interest expense and a reasonable return on equity. Mr. Carter further testified that each month, when the Company bills its customers, a portion of a customer's monthly telephone bill includes an amount to cover interest expense. The Company collects these revenues from the customer each month, but interest expense, primarily interest on long-term debt, has to be paid by the Company

only semiannually. The result is that the Company collected money to cover interest expense every month, but paid it only semiannually resulting in the 71.22 lag days for interest expense. Since the Company is collecting this money before it has to pay it to the bond holders, witness Carter stated that interest expense definitely should be recognized in the Company's lead-lag study.

In reaching its conclusion concerning the appropriate amount of working capital allowance to be used in this proceeding, the Commission defines the working capital allowance as the amount of capital provided by the Company's investors that enables the Company to maintain an inventory of materials and supplies and cash necessary to maintain compensating bank balances and to pay expenses of providing telephone service prior to the time revenues for telephone service are received from its customers. A working capital allowance should be included as a component of the rate base only to the extent that it is provided by the Company's debt and equity investors.

The Company submitted no testimony or evidence to support its cash working capital allowance calculated by means of the fixed formula method. However, the Company did file a lead-lag study in accordance with the minimum filing requirements. This study, which Public Staff witness Carter used in calculating his working capital allowance, quantifies the dollar effect of the time difference between the date costs are incurred and paid and the date services are billed and collected. Since Mr. Carter's testimony and exhibit show that revenues are being collected from the customers before the Company is paying its expenses, it is appropriate that the result of this study be utilized in determining the working capital allowance. The Commission is of the opinion that the lead-lag study is the most accurate method of determining the need for working capital. Amounts representing the average daily bank balances including compensating bank balances and materials and supplies less accounts payable related to plant in service should also be included in the working capital allowance. The lead-lag study method is a more accurate method of determining the working capital allowance because it is based on the customers' actual payment practices for telephone service and the Applicant's actual payment practices for costs incurred. A lead-lag study determines whether, on the average, a company is receiving revenue from its customers before it pays its creditors for the costs of providing telephone service, or vice versa. The lead-lag study is based on factual data. The formula method, on the other hand, is entirely an estimate. It is not based on the Applicant's actual collection and payment practices. The formula method can result in a company's receiving either too much or too little working capital instead of an amount based on its actual collection and payment experience.

The Commission also agrees with Mr. Carter that interest expense should be included in the lead-lag study because it

has been collected from the ratepayers through the rates set in the preceding Central Telephone Company case. The inclusion of interest expense in the lead-lag study does not prevent the Company from earning a rate of return sufficient to cover the embedded cost of debt in the capital structure; it merely recognizes that a portion of the rate base is financed by debt and that the interest expense which the Company incurs on this debt has been collected from its customers before it is paid to the bond holders.

Based on all the testimony and evidence in this case, the Commission concludes that Public Staff witness Carter's working capital allowance of $904,236 is the appropriate amount to be used in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7, 8, AND 9

Company witness Ralph E. Smith testified with respect to his determination of the Net Trended Original Cost valuation of Central's North Carolina properties used and useful in furnishing telephone service as of December 31, 1976.

Although the term "replacement cost" envisions replacing the utility plant in accordance with modern design techniques and with the most up-to-date changes in the art of telephony, trended original cost as presented by Company witness Smith is founded upon the premise of duplication of plant as is, with certain inefficiencies and outmoded designs included. While obsolescence can be accounted for in proper depreciation treatment, to an extent, the economies of scale inherent in the telecommunications industry (e.g., employing one 600-pair cable instead of six 100-pair cables installed over a period of years) are not fully recognized in the trending process. The process which has been testified to by Mr. Smith is that of Reproduction Cost New, a process of trending accounts with no new efficiencies given consideration.

Witness Smith calculated his net trended original cost by applying trend factors from the Handy-Whitman Index, Boeckh Index, and the Department of Labor - Bureau of Labor Statistics and then deducting the amount of depreciation as shown on the Company's books to get his net trended original cost figure by plant account.

The trended original cost study presented by witness Smith has several deficiencies which make it unacceptable as the full basis for determining replacement cost. The approach taken by Smith is to trend depreciated vintage dollars of plant investment surviving on the books at the end of the test period. These surviving vintage dollars by year of placement were determined, in part, on the basis of applying selected Iowa type survivor curves to the book balances at the end of the test period. The application of Iowa survivor curves to determine surviving vintage dollars is a matter of judgment, and selections must be made from a wide

variety of curves available. The book reserve was then distributed on a vintage basis using the results of a theoretical reserve study and not based on actual records.

Mr. Smith did not make any allowance in his trending of original book cost for inefficiency of excess margin, existing service or plant deficiencies, any advances in the art of telephony which have occurred over the life span of the surviving plant, or any excess prices paid for installed plant facilities. To the contrary, the result of Mr. Smith's approach is to compound all of these deficiencies through his trending process.

The Commission concludes that Mr. Smith's results are based to a significant extent on estimates and assumptions in arriving at the surviving dollars by years of placement before any trending factors are applied. The methods employed use various estimates and assumptions in arriving at the cost trend factors to be applied to the estimated surviving dollars, make no allowance for inadequate engineering, excess plant margins or excess profits to Centel Service Company, make no allowance for plant service deficiencies, and do not reflect any of the advancements in the art of telephone engineering and construction which have occurred since the installation of the surviving plant on the books at the end of the test period. For these reasons, the Commission finds that Central has failed to present persuasive and sufficient evidence for the Commission to accept fully the Company's trended cost study as reflecting the replacement cost of its North Carolina intrastate property.

The Commission concludes that the reasonable original cost less depreciation of Central's telephone plant in service at December 31, 1976, excluding excess profits is $108,688,970. The excess profits should be excluded from the original cost dollars as these dollars are to be excluded from the rate base.

The Commission concludes that the trended original cost dollars, although not reflecting a true replacement cost since mass-impulse factors have not been applied to reduce the reproduction cost of plant in service to a replacement cost, should be trended from original cost to the end of the test period by the same percentage factor that Company witness Smith used in trending his original cost dollars to December 31, 1976. By applying this percentage to $108,688,970, the net trended original cost value is $160,968,112.

Having determined the appropriate original cost of net investment in plant in intrastate service to be $108,688,970 and the reasonable estimate of net replacement cost to be $160,968,112, the Commission must determine the fair value of Central's net plant in service.

G.S. 62-133(b)(1) requires the Commission to ascertain the fair value of the utility's property, giving consideration to reasonable original cost less depreciation, replacement cost, and any other relevant factors. Original cost and replacement cost are merely evidential facts or indicators which the Commission must find in order to reach the ultimate fact of fair value. Utilities Comm'n v. Telephone Co., 281 NC 318, 360; Utilities Comm'n v. Morgan, Attorney General, 277 NC 255, 268 (1970).

Company witness Smith testified that a 100% weighting should be given the net replacement cost in affixing a fair value to the intrastate operations of Centel. This, however, would overcompensate the Company and provide no weighting at all to be the net original cost dollars of Central's operations.

A weighting of 50% to net original cost and 50% to net replacement cost was determined to be reasonable in Central's last rate case. (Docket No. P-10, Sub 351). There being no convincing evidence to the contrary, the Commission concludes that the same weighting should be given in this case.

Applying a 50% weighting to the net original cost of $108,688,970 and a 50% weighting to the net replacement cost of $160,968,112 yields a reasonable fair value of Central's intrastate plant in service of $134,828,541. The Commission concludes that, by adding the reasonable working capital of $904,236 to the fair value of Central's intrastate plant in service thus derived, the reasonable fair value of Central's intrastate property in service to North Carolina ratepayers is $135,732,777.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witnesses Bailor, Owens, and Nichols and Public Staff witnesses Gerringer and Carter presented testimony concerning Central's representative level of end-of-test-period intrastate toll revenues. Central determines its toll revenues through toll settlements with Southern Bell on an actual cost contract basis.

As indicated in Evidence and Conclusions for Finding of Fact No. 11, infra, Company witness Bailor showed $11,108,631 as the test-period level of intrastate toll revenues for Central after making accounting and pro forma adjustments to the booked intrastate toll revenues. In addition, Company witness Bailor showed $2,553,090 as a proposed increase in Central's intrastate toll revenues, producing a final end-of-test-period level of intrastate toll revenues of $13,661,721.

At the time Central filed its rate case application, the matter of changes in a cost company's intrastate toll settlements were pending in Docket No. P-100, Subs 32 and 42, arising out of a Complaint Proceeding filed by Carolina

Telephone and Telegraph Company requesting that the Commission investigate the intrastate toll settlement ratio. Based on possible results anticipated from these proceedings, Company witness Bailor estimated that Central could receive $2,553,090 in additional intrastate toll revenues which when added to the adjusted book amount for the test period of $11,108,631 produced a representative level of end-of-test-period intrastate toll revenues of $13,661,721. The $2,553,090 amount was computed using 15% as the cost of common stock equity (as recommended by Company witness Owens), 7.45% as the embedded cost of debt, 6.54% as the cost of preferred stock, and the intrastate toll portion of the Company's operations and rate-making rate base as of December 31, 1976 (end of test period).

At the time the Public Staff filed its testimony in this rate case, the matters pending in Docket No. P-100, Subs 32 and 44, had been continued as a result of a rate case filing by Southern Bell Telephone and Telegraph Company in Docket No. P-55, Sub 768. That filing included proposed changes in the intrastate toll rates which were set out for investigation in Docket No. P-100, Sub 45. The Commission in its Order issued September 7, 1977, in Docket Nos. P-55, Sub 768, and P-100, Sub 45, stated that any additional toll settlements which will accrue to independent telephone companies from any approved increase in intrastate toll rates will be considered in such telephone company's rate case pending before the Commission.

Public Staff witness Gerringer estimated the representative level of end-of-test-period intrastate toll revenues by a normal toll settlement calculation applicable to cost settlement companies in which he utilized the intrastate toll net investment (based on a settlement rate base) and operating expenses and an intrastate toll settlement ratio all adjusted or restated to an end-of-test-period level as of December 31, 1976. The intrastate toll settlement ratio used for this calculation in prefiled testimony was 9.05%. This ratio reflected a preliminary estimate of the impact of the pending proposed changes in the intrastate toll rates as applied to a proformed settlement ratio prior to any toll rate changes.

Using the 9.05% ratio, the representative level of end-of-test-period intrastate toll revenues for Central was calculated to be $11,768,276 for message toll, WATS, and B-I interexchange private line services. To arrive at the total intrastate toll revenue level, a noncost study amount of revenues for I-I private line services of $24,972 had to be added yielding a revenue level of $11,793,248. Public Staff witness Carter testified that he used Public Staff witness Gerringer's amount of $11,793,248 and deducted $4,998 to reflect the intrastate toll revenue effect of his adjustments to operating expenses resulting in a final level of $11,788,250 as reflected in Finding of Fact No. 11. Under Evidence and Conclusions for Finding of Fact No. 12, infra, the Commission accepted all of Mr. Carter's

adjustments to operating expenses; therefore, the Commission concludes that Mr. Carter's adjustment decreasing intrastate toll revenues by $4,998 is appropriate.

At the time of the hearing, Public Staff witness Gerringer updated the intrastate toll settlement ratio from 9.05% to 9.12% reflecting a revision to part of the data used to develop the preliminary estimate of the 9.05% ratio. Using the 9.12% ratio, the representative level of end-of-test-period intrastate toll revenues for Central was calculated to be $11,806,644 for message toll, WATS, and B-I interexchange private line services. Again, to arrive at the total intrastate toll revenue level, a noncost study amount of revenues for I-I private line services of $24,972 had to be added and an amount of $4,998 as testified to by Public Staff witness Carter had to be subtracted, yielding a final level of $11,826,618.

Based upon the foregoing discussion of the evidence and after careful review and consideration of the entire record in this docket, the Commission is of the opinion that the representative level of end-of-test-period intrastate toll revenues for Central should be based on Public Staff witnesses Gerringer's and Carter's calculations of $11,826,618, adjusted to include the final results of the Commission's findings in Docket No. P-100, Sub 45 (Investigation of Intrastate Long Distance, WATS, and Interexchange Private Line Rates of all Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission). The Commission takes official notice of its records in that docket. Therefore, based upon the Commission's findings in Docket No. P-100, Sub 45, the Commission concludes that Central will realize approximately $1,035,993 in toll service revenues in addition to the $11,826,618 proposed by the Public Staff resulting in total test-period intrastate toll revenues of $12,862,611. Of this amount approximately $2,506,761 results from the increase in toll rates approved in Docket No. P-100, Sub 45.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Bailor and Public Staff witnesses Gerringer and Carter presented testimony concerning the representative end-of-period level of operating revenues. Witness Gerringer testified specifically concerning the separation factors developed from the cost separation study for the 12 months ended December 31, 1975, revised to include traffic factors for the test period, the Company's toll settlements with Southern Bell Telephone and Telegraph Company and appropriate end-of-period level of intrastate toll revenues, and the changes the Company is proposing to its EAS component rate plan. The end-of-period toll revenue amount determined by witness Gerringer was included by witness Carter in his testimony and exhibit. Witnesses Bailor and Carter each testified as to the appropriate level of operating revenues after accounting and pro forma

adjustments. The following tabular summary shows the amounts presented by each witness:

Item	Company Witness Bailor (a)	Public Staff Witness Carter (b)
Local service revenues	$27,735,244	$28,015,216
Toll service revenues	11,108,631	11,788,250
Miscellaneous revenues	1,092,617	1,219,797
Uncollectibles	(78,073)	(26,614)
Total	$39,858,419	$40,996,649

The difference of $279,972 between the two amounts presented by each witness for local service revenues results from the two different methods of calculating end-of-period local service revenue employed by each witness. Company witness Bailor computed end-of-period local service revenues by taking actual book local service revenues for the test period of $26,876,345 and making two pro forma adjustments to this amount. The first adjustment was to annualize the increase in local service rates authorized under Docket No. P-10, Sub 351, which became effective February 3, 1976. Company witness Bailor took the annual additional revenue of $5,276,568 to be realized from the approved increase in Docket No. P-10, Sub 351, and divided that amount by 12 to arrive at the monthly effect of the rate increase. This amount was then multiplied by 1 1/10 months which was the period of time during the test period that the higher rates were not in effect. The result of $483,271 was added to actual book local service revenues. Company witness Bailor's second adjustment was to annualize local service revenues based on main station growth during the test period. For each month of the test year Company witness Bailor took the total amount of revenue produced by all components of local service during each month and divided it by the number of main stations in service at the end of the prior month to arrive at the revenue per main station each month. The cumulative revenue per main station was then multiplied by the increase in the number of main stations for each month over that of the preceding month to annualize from the beginning of the test year up to the month in which the customer was added. To this amount was added an amount equal to one-half of the increase in main stations per month multiplied by the monthly revenue per main station in order to annualize the individual month that the customer was added. Company witness Bailor did not attempt to annualize each class of service which produces local service revenues but only the total amount of local service revenues for the test year. This second adjustment resulted in $375,628 being added to actual book local service revenues to arrive at Company witness Bailor's end-of-period local service revenues of $27,735,244.

Public Staff witness Carter calculated end-of-period local service revenues by breaking down local service revenue into

five components (subscriber station revenue, service connections, moves and changes, public telephone revenue, directory assistance charges, and other local service revenues) and annualizing each component. For subscriber station revenue, witness Carter annualized revenue for the month of December 1976, the last month of the test year. He testified that subscriber station revenue is an item which continuously increases as long as telephone stations increase. As long as the number of stations does not decrease from the December 1976 level, the amount of subscriber station revenue should not decrease from the December level. Mr. Carter also testified that neither the number of telephone stations nor the amount of subscriber station revenue has decreased from the December 1976 level; therefore, he annualized subscriber station revenue by multiplying December 1976 subscriber station revenue by 12.

For service connections, moves and changes, Mr. Carter determined the average monthly revenue for the period March 1976 to December 1976, multiplied this amount by 12, and increased the result by 1.05%, the percentage increase in the number of main stations from March to December. Mr. Carter testified that he selected the period March to December because the Company received a general rate increase in February 1976, including an increase in rates for service connection charges, moves and changes, and March was the first month in which the increased rates were in effect. Mr. Carter also testified that he did not annualize this type of local service revenue by multiplying the December amount by 12 because, unlike subscriber station revenue which increases each month, revenue from service connections, moves and changes fluctuates from month to month.

Witness Carter testified that he annualized public telephone revenue in the same manner and for the same reasons as he annualized service connections, moves and changes, except that he annualized the average monthly amount by multiplying by 12 and then by 2.016%, the percentage increase in the number of pay stations from March to December, since revenue from pay stations is related to the number of pay stations instead of the number of main stations.

For directory assistance charges, witness Carter determined the revenue for the last six months of the test period, multiplied this amount by 2 and increased the result by .68%, the percentage increase in the number of main stations from July 1976 to December 1976. Mr. Carter testified that he used the period July to December because the Company began charging for directory assistance calls in May and revenue from directory assistance charges was $748 in May and $485 in June. Beginning in July and continuing through December, revenue from directory assistance charges ranged from $1,006 to $1,387. Witness Carter testified that he felt that the low months of May and June should not be used in determining a normalized level of directory

assistance charge revenue since the Company had not experienced directory assistance charge revenue in that range after June 1976.

Public Staff witness Carter testified that other local service revenue consists primarily of revenue from private lines and extended area service. To annualize this component of revenue, Mr. Carter increased actual revenue for the test period, excluding an out-of-period adjustment to local private line - teletypewriter and the interstate portion of local private line revenue, by 1.376%, the percentage increase in the number of main stations during the test year. Witness Carter testified that he used this method because the revenue from these items fluctuates from month to month making it impossible to annualize other local service revenue in the same manner as he annualized subscriber station revenue. Also, he testified that in its last general rate case the Company did not receive an increase in private line rates; therefore, he could not annualize the private line revenue in the same manner as he annualized service connections, moves and changes, and public telephone revenue. Based on these facts, in Mr. Carter's opinion, applying the percentage increase in the number of main stations to the actual revenue received during the test period is the most reasonable method to annualize other local service revenue. Witness Carter determined that the total annualized local service revenue was $28,015,216, consisting of $26,362,608 of subscriber station revenue, $1,062,698 of service connections, moves and changes, $362,802 of public telephone revenue, $14,973 of directory assistance charges, and $212,135 of other local service revenue.

The Commission concludes that the method of calculating the end-of-period level of local service revenue employed by witness Carter is the proper method to use in this proceeding because he annualized each component of local service revenue. The Commission concludes that witness Carter's end-of-period level of intrastate local service revenue in the amount of $28,015,216 should be used for the purpose of fixing rates in this proceeding.

The next area of disagreement between the witnesses concerns the end-of-period level of toll service revenues. In Evidence and Conclusions for Finding of Fact No. 10, the Commission has already concluded that the proper amount of end-of-period toll service revenues including the additional intrastate toll revenue settlements Central is expected to realize from the increase in toll rates approved in Docket No. P-100, Sub 45 is $12,862,611.

The next area of disagreement concerns the amount of miscellaneous revenue included by each witness. The difference of $127,180 is the result of two adjustments made by witness Carter. The first adjustment represents an increase in directory advertising revenue. Mr. Carter testified that, during 1977, Central increased its rates for

directory advertising effective at various dates during the year. He recognized the additional revenue which Central would have received if the increased directory advertising rates effective through October 1977 had been in effect during the test year. If these increased rates had been in effect during the test year, Central would have collected $194,172 in additional revenue and would have retained $129,049 of this amount. From the $129,049 amount Mr. Carter deducted $13,050, the adjustment to directory advertising revenue included by Mr. Bailor, which resulted in a net additional adjustment of $115,999. Of the $115,999 total adjustment, $114,700 is applicable to intrastate operations.

The second adjustment of $12,480 also increases miscellaneous revenue. During the test period, Central decreased rent revenue for a retroactive adjustment relating to a period ended prior to July 1975. Mr. Carter testified that this decrease in revenue was related entirely to an out-of-period item and should be reversed for rate-making purposes.

Based on the evidence presented, the Commission concludes that both adjustments made by Public Staff witness Carter increasing miscellaneous revenues are appropriate.

The final item of disagreement between the two witnesses involves the appropriate level of uncollectible operating revenues. Company witness Bailor adjusted the provision for write-offs which were expensed on the Company's books during the test year to reflect the amount of net write-offs on all revenue billed during the test year. He then added an amount applicable to his revenue adjustments which was derived by applying a ratio to the amount of the revenue adjustments. The ratio was developed by dividing net write-offs for the test year by total billed revenue for the test year. The adjusted amount of uncollectibles was then allocated to North Carolina intrastate operations by means of an allocation factor.

Witness Carter also calculated a ratio in arriving at uncollectible operating revenues but did so by relating test-period uncollectibles applicable to local service revenue to the amount of test-period local service revenues. The resulting ratio was then applied to his adjusted amount of local service revenues to arrive at his adjusted end-of-period uncollectible operating revenues relating to local service revenues. The intrastate end-of-period toll revenues presented by Mr. Carter do not include any amount to cover uncollectibles; therefore, it is improper to include in uncollectible revenues amounts which are not recognized by Mr. Gerringer in developing toll revenues.

The Commission concludes that uncollectible operating revenues should be adjusted to an end-of-period level based on the end-of-period local service revenues using witness Carter's ratio of .095%. The Commission concludes that this

is a more accurate method than that employed by the Company because it recognizes that the ratio of uncollectible operating revenues varies among different types of revenues. It is not necessary to include an amount in uncollectible operating revenues for the uncollectible portion of end-of-period intrastate toll revenues because the Company recovers uncollectible intrastate toll revenues in the settlement process. Any inclusion in uncollectible operating revenues for uncollectible intrastate toll revenues would require an addition to revenues of the same amount since the development of the intrastate end-of-period toll revenues did not include a provision for uncollectibles. The Commission has previously determined that end-of-period local service revenues are $28,015,216; therefore, the Commission concludes that the appropriate end-of-period level of uncollectible revenues is $26,614.

In summary, the Commission concludes that the appropriate level of operating revenues under present rates is $42,071,010, consisting of local service revenues of $28,015,216, toll service revenues of $12,862,611, miscellaneous revenues of $1,219,797, and uncollectible revenues of $26,614.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Bailor and Public Staff witness Carter 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 Central Telephone Company's rates in this proceeding. The following tabular summary shows the amounts claimed by each witness:

Item	Company Witness Bailor (a)	Public Staff Witness Carter (b)
Operating expenses	$15,357,121	$15,497,976
Depreciation expense	5,987,151	5,915,592
Interest on customer deposits	7,774	6,544
Other operating taxes	4,430,614	4,387,052
Income taxes - state and federal	5,364,514	5,561,686
Total operating revenue deductions	$31,147,174	$31,368,850

The first item of difference in the operating revenue deductions stated above concerns operating expenses. Company witness Bailor testified that the appropriate level of operating expenses is $15,357,121 while Public Staff witness Carter testified that the appropriate level is $15,497,976, or a difference of $140,855. The $140,855

difference is comprised of the following adjustments made by witness Carter:

Item No.	Item	Amount
1.	Adjustment to maintenance, traffic, commercial, and general office expenses for salaries and wages	$(83,434)
2.	Adjustment to maintenance expense to remove from the test year an incorrect charge	(7,625)
3.	Adjustment to increase maintenance and general office salaries and expenses due to expensing of certain engineering costs during 1977	266,431
4.	Adjustment to maintenance expense for excess profits on purchases from Centel Service Company	(8,276)
5.	Adjustment to eliminate amortization of rate case expense expiring June 30, 1977	(11,497)
6.	Difference due to Company's using composite intrastate allocation factor for general office salaries and expense and other expenses, whereas the Public Staff used separate intrastate allocation factors for revenue accounting, general office salaries and expenses, and other expenses	(14,744)
7.	Total	$140,855

The Commission will now discuss each of the preceding adjustments comprising the $140,855 difference in operating expenses.

The first adjustment listed above concerns an adjustment to maintenance, traffic, commercial, and general office expenses for salaries and wages. Public Staff witness Carter testified that Company witness Bailor, in determining his end-of-period level of salaries and wages, included estimated additional salaries and wages for the anticipated increase in the number of employees during 1977. The amount of this portion of Mr. Bailor's adjustment was $144,810 on combined operations. Witness Carter did not include an adjustment for an increase in the number of employees during 1977 because the number of employees had not increased during 1977 from the end-of-test-period level, and there had been only a very slight increase from the average level of employees during the test year. He determined the annualized level of salaries and wages per average employee by function during the test year, including the wage increases granted in 1977, and multiplied this amount by the

number of employees at the end of the test year to arrive at the end-of-period level of salaries and wages based on the number of employees at the end of the test period by function (maintenance, traffic, commercial, and general office). This method recognizes the overall increase in the number of employees during the test year as well as the increases and decreases in the number of employees in each function during the test year. The result was an adjustment to decrease salaries and wages by $83,434 in order to eliminate the cost of the projected increase in the number of employees during 1977 which has failed to materialize.

The Commission concludes that witness Carter's adjustment to maintenance, traffic, commercial, and general office expenses for salaries and wages is proper because the projected increase by the Company in the number of employees during 1977 has not taken place. This is clearly shown on Public Staff Bailor Cross-Examination Exhibit No. 1. This exhibit shows that the number of employees at July 1977 was the same at December 31, 1977, the end of the test period. Even the breakdown between exempt and nonexempt employees was the same. Company witness Bailor under cross-examination admitted that the projected increase now appears to have been too high and agreed that Public Staff witness Carter's method of using the number of employees at the end of the test period was appropriate.

The second adjustment listed above concerns the decrease of maintenance expense by $7,625 to remove from the test year an incorrect charge for test equipment recorded as repairs which should have been charged to construction work in progress. The Company corrected this misclassification in March 1977.

The Commission agrees with witness Carter's adjustment to remove from the test year an incorrect charge to expense of $7,625. The Company corrected its original entry but not until March 1977; therefore, it is necessary to remove this incorrect charge to expense from the test year to determine accurately the cost of service to be used in setting rates for the future.

The third adjustment listed above concerns an adjustment to increase maintenance expenses and general office salaries and expenses for the expensing of a portion of engineering costs. Witness Carter testified that during the test period the Company capitalized all engineering costs. In 1977, the Company prepared studies of its engineering costs, determined that a portion of these costs should be charged to maintenance expense and general office salaries and expenses, and began expensing these costs in 1977. Mr. Carter also testified that the Uniform System of Accounts supports the position that a portion of engineering costs should be expensed and that this practice is followed by other telephone companies. If the Company had been following the practice of expensing a portion of engineering costs during the test period, maintenance expenses and

general office salaries and expenses would have increased by $266,431.

The Commission concludes that witness Carter's adjustment to increase maintenance and general office salaries and expenses by $266,431 due to the expensing of certain engineering costs in 1977 is appropriate. This is an expense which the Company is presently incurring and which should be considered in determining the cost of service used in setting rates for the future. Also, this treatment of engineering expenses is consistent with the provisions of the Uniform System of Accounts for telephone companies as prescribed by this Commission.

The fourth adjustment listed above concerns an adjustment to maintenance expense resulting from excess profits on materials purchased from Centel Service Company which were expensed during the test year.

In Evidence and Conclusions for Finding of Fact No. 5, the Commission determined that the profits of Centel Service Company on sales to Central Telephone Company which generated more than a 15% return on equity were excessive. Therefore, the Commission concludes that witness Carter's adjustment of $8,276 to exclude excess profits on maintenance materials purchased from Centel Service Company is proper.

The fifth adjustment listed above concerns the elimination of the amortization of rate case expenses associated with the Company's 1971 rate case in the amount of $11,497 because the amortization of this expense expired at June 30, 1977. Witness Carter testified that this is an expense item which is no longer incurred by the Company and rates should not be set to cover this item of expense. He stated that elimination of this item of expense which occurred subsequent to the end of the test year is consistent with the adjustments of recognizing the increase in wage rates and increase in directory advertising rates subsequent to the end of the test year.

The Commission concludes that witness Carter's adjustment to eliminate amortization of rate case expense expiring June 30, 1977, is appropriate. This is an expense which the Company is not presently incurring and should not be considered in determining the cost of service which will be used in setting rates for the future.

The remaining difference of ($14,744) arises because Company witness Bailor and Public Staff witness Carter used different intrastate allocation factors for certain operating expenses. Mr. Bailor used a composite intrastate allocation factor to allocate the total dollar amount of revenue accounting expenses, general office salaries and expenses, and other expenses. Mr. Carter applied a separate intrastate allocation factor to each of these three expense categories.

The Commission concludes that the intrastate allocation factors used by witness Carter are appropriate for use herein. The use of individual factors results in a more accurate allocation of costs to intrastate operations.

The Commission concludes that the proper amount of operating expenses to be used in this proceeding is $15,497,976.

The second component of operating revenue deductions on which the two witnesses disagree is the proper level of depreciation expense. Company witness Bailor presented an amount of $5,987,151, while Public Staff witness Carter presented an amount of $5,915,592. The difference of $71,559 is due to an adjustment by witness Carter eliminating depreciation on excess profits existing in the plant accounts at December 31, 1976.

Since the Commission has found the profits of Centel Service Company on sales of materials and supplies to Central Telephone Company to be excessive, the Commission also finds that witness Carter's adjustment of $71,559 to eliminate depreciation on such excess profits to be proper.

The Commission concludes from the examination made and conclusions reached regarding the adjustment presented by witness Carter that $5,915,592 is the appropriate level of depreciation expense to be used in this proceeding.

The third operating revenue deduction upon which the witnesses disagree is interest on customer deposits. Company witness Bailor included interest on customer deposits of $7,774 which was the amount accrued on the Company's books during the test period. Witness Carter adjusted this amount downward by $1,204 after calculating interest on end-of-period customer deposits subject to the payment of interest. Witness Carter testified that the Company must pay interest on customer deposits after it has held a deposit 90 days. To determine the amount of customer deposits at December 31, 1976, subject to the payment of interest, witness Carter took the balance at December 31, 1976, and deducted collections received during October, November, and December. The result represents the dollar amount of customer deposits the Company has held for 90 days, which is the amount subject to the payment of interest. When this amount is multiplied by 6% interest rate, the annual interest on customer deposits is derived. An additional decrease of $26 results from witness Carter's using a different intrastate allocation factor, which is calculated by comparing intrastate toll and local service revenues per books to total toll and local service revenues per books.

The Commission concludes that witness Carter's adjustment to interest on customer deposits is appropriate. The Commission has previously concluded that end-of-period customer deposits should be included as a reduction of the

original cost net investment and now concludes that it is proper to include $6,544 of end-of-period interest on these deposits as an operating revenue deduction with the result that Central Telephone Company will be allowed to recover only its cost of these customer supplied funds. Although Central actually had $154,406 of customer deposits at the end of the test period, only $129,931 was subject to the payment of interest. The $129,931 multiplied by the interest rate of 6% times the intrastate allocation factor of .839403 results in the $6,544 amount of interest on customer deposits.

The fourth operating revenue deduction upon which the witnesses disagree is other operating taxes. The amount presented by Company witness Bailor of $4,430,614 is $43,562 more than the amount of $4,387,052 presented by Public Staff witness Carter. The $43,562 difference results from the following adjustments proposed by witness Carter:

Item No.	Item	Amount
1.	Adjustment to decrease payroll taxes applicable to the Public Staff's adjustment to salaries and wages	$ (4,729)
2.	Adjustment to decrease payroll taxes due to capitalizing of payroll taxes on certain labor during 1977	(115,915)
3.	Adjustment to increase gross receipts taxes resulting from adjustments to revenues	77,765
4.	Difference due to Company's using composite intrastate allocation factor for other operating taxes, whereas the Public Staff used separate intrastate allocation factors for payroll taxes, gross receipts taxes, property taxes, and other taxes	(683)
	Total	$ (43,562)

The first adjustment made by witness Carter concerns a reduction in payroll taxes of $4,729 applicable to his adjustment to salaries and wages. Witness Carter testified that his adjustment is consistent with his earlier adjustment to reduce salaries and wages.

The Commission previously concluded that witness Carter's adjustment to salaries and wages is proper and now concludes that his adjustment to decrease payroll taxes applicable to his adjustment to salaries and wages is also proper.

The second adjustment made by witness Carter concerns a reduction in payroll taxes due to the capitalization of payroll taxes on certain labor during 1977. Witness Carter testified that during 1977 the Company began capitalizing

payroll taxes on all labor capitalized, including indirect labor, plant supervision, and general and administrative labor. During the test year the Company capitalized payroll taxes related only to direct labor capitalized. The effect of the change is to capitalize additional payroll taxes that would have been expensed prior to 1977. If the new procedure of capitalizing payroll taxes had been in effect during the test year, the amount of payroll taxes charged to expense would have been $115,915 less than the amount actually expensed.

The Commission concludes that witness Carter's adjustment to reduce payroll taxes due to the capitalization of payroll taxes on certain labor in 1977 is appropriate. This is a portion of an expense which the Company is presently not expensing, and it should not be considered in determining the cost of service which will be used in setting rates for the future.

The third adjustment made by witness Carter concerns an adjustment to gross receipts taxes. Both Company witness Bailor and Public Staff witness Carter proposed an end-of-period gross receipts tax adjustment consistent with their adjustments to end-of-period local service and intrastate toll service revenues.

The Commission has previously determined that the end-of-period revenues are $42,071,010 including the increase in intrastate toll revenues resulting from the increase in toll rates approved in Docket No. P-100, Sub 45. Therefore, this adjusted revenue amount is appropriate for use in determining the amount of end-of-period gross receipts tax. Upon examination of the evidence presented, the Commission concludes that the proper level of gross receipts tax is $2,524,261.

The remaining difference of $683 results from Company witness Bailor's and Public Staff witness Carter's using different intrastate allocation factors for payroll taxes, gross receipts taxes, property taxes, and other taxes. Witness Bailor used a composite intrastate allocation factor to allocate these other operating taxes. Witness Carter used a separate intrastate allocation factor for each of these four categories of taxes.

The Commission concludes that the separate intrastate allocation factors used by witness Carter for the other operating tax accounts of payroll taxes, gross receipts taxes, property taxes, and other taxes are appropriate. The use of these individual factors will result in a more accurate allocation to intrastate operations than the use of a composite allocation factor applied to the total of these four categories of other operating taxes.

Based upon the examination made and conclusions reached regarding the adjustments proposed by witness Carter, the Commission concludes that the appropriate level of other

operating taxes to be used in this proceeding as an operating revenue deduction is $4,451,514.

The final operating revenue deduction upon which the witnesses disagree is State and Federal income taxes. 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 and the different amounts of "Schedule M" add-back and deduct items used by each witness. The 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 tax deductions found proper by the Commission is different from the amounts presented by either witness in his testimony; therefore, the Commission will calculate the appropriate level of State and Federal income taxes for use in this proceeding. First, however, the Commission will discuss some of the few differences between the two witnesses' computations of State and Federal income taxes.

The first difference is the amount of deduction for interest expense. Company witness Bailor used the actual amount of interest expense during the test period plus his pro forma adjustment to interest expense plus interest on customer deposits, which totaled $3,386,819. Public Staff witness Carter used interest expense of $3,985,777, which he calculated on the end-of-period debt capital supporting the intrastate original cost net investment developed in Carter Exhibit 1, Schedule 1. This amount of interest deduction is based on the double leverage capital structure as recommended by Public Staff witness Rosenberg.

Because the interest expense used by Mr. Bailor in computing income taxes is less than the interest expense necessary to support end-of-period debt and its embedded cost as shown on Bailor Exhibit 4, Page No. 10, and since, as discussed under Evidence and Conclusions for Findings of Fact Nos. 13-16, infra, the Commission did not adopt the capital structure as proposed by the Public Staff, it becomes necessary for the Commission to calculate the proper amount of interest expense to be included in the income tax calculations. The Commission concludes that the proper level of end-of-period interest expense to be included in the cost of service and in the calculation of State and Federal income tax expense is $3,197,175.

The second difference is the amount of depreciation on intercompany profits to be added back in calculating Federal income taxes. Mr. Bailor added back an amount of $231,953 while Mr. Carter added back an amount of $160,394, or a difference of $71,559. The difference of $71,559 between the two witnesses results from witness Carter's reducing his amount by the amount of depreciation related to excess profits on purchases from Centel Service Company.

Since the Commission has previously concluded that witness Carter's adjustment to depreciation expense of $71,559 to eliminate depreciation on excess profits on purchases from Centel Service Company was proper, it now concludes that witness Carter's $160,394 add back for depreciation on intercompany profits used in his calculation of Federal income taxes is proper. It is necessary to reduce the add back for depreciation on intercompany profits by the amount of $71,559 for the following reason. Operating income before income taxes, the starting point in the tax calculation, as shown on Schedule I, is $16,199,384. That level of income has been increased for the decrease in depreciation on excess profits. The $231,953 add back for depreciation on intercompany profits used by Mr. Bailor includes depreciation on all intercompany profits including excess profits on purchases from Centel Service Company. Therefore, failure to decrease the add back for depreciation on intercompany profits by the depreciation on excess profits already added back by the Commission would result in providing income taxes twice on $71,559 of depreciation on excess profits.

The third difference results from witness Bailor's normalizing the income tax effects of $378,243 of capitalized payroll taxes, pensions, and use taxes in his income tax calculation, whereas witness Carter deducted or flowed-through these items in his income tax calculation. Witness Bailor testified that witness Carter's flow-through method for these items would result in an improper reduction in the test-period operating expenses resulting solely from the construction of plant. Mr. Bailor further testified that normalization of the tax effects of these items would achieve a more proper allocation of costs between present ratepayers and future ratepayers and would improve the internal cash flow and interest coverage ratios of the Company, thereby reducing the overall cost of capital to the Company and its ratepayers. Mr. Bailor testified on cross-examination that some of the states in which Central operates permit the Company to normalize the income tax effects of these items, while other states require the Company to flow-through the income tax effects of these items.

Witness Carter testified that the Company receives an income tax deduction currently for these items, even though they are capitalized on the Company's books and records, and if the income tax effects of these items are normalized, it means that the ratepayers will have to pay additional telephone rates to cover income taxes that the Company is currently not incurring. Mr. Carter further testified that as long as the construction program continues at its present level, the Company will continue to get a tax reduction for these items in the year in which they are incurred.

The Commission concludes that witness Carter's method of flowing through these items to the present ratepayers is appropriate. The Company is presently getting an income tax

deduction for these capitalized taxes and fringe benefits. It would be inappropriate to increase income tax expense by not deducting these items when the Company is actually deducting these items in determining the income taxes which it pays the State and Federal governments. Witness Bailor testified on rebuttal that when the Company's income tax return was prepared and filed on September 15, 1977, it was discovered that use taxes capitalized for the test period were $130,516 rather than the $252,858 as presented in the minimum filing requirements. The Commission agrees with this correction and concludes that the revised amount of $255,901 ($378,243 - $252,858 + $130,516) should be used when deducting these capitalized taxes and fringe benefits in calculating State and Federal income taxes.

The final difference results from witness Bailor's deducting the amortization of Centel Service Company's deferred taxes in determining the Company's Federal tax expense while witness Carter did not deduct an amount for this item.

The Commission concludes that witness Bailor's deduction from the Company's Federal tax liability of an amount for the amortization of Centel Service Company's deferred taxes is proper. This is an item which is actually deducted by Central in determining its income tax expense per books.

The Commission concludes that the proper amount of State income taxes is $786,930 and Federal income taxes is $5,645,352, for total State and Federal income taxes of $6,432,282. The following schedule sets forth the State and Federal income tax calculations:

Line No.	Item	Amount State	Amount Federal
1.	Operating income before income taxes and fixed charges	$16,199,384	$16,199,384
2.	Deduct: Interest expense on intrastate original cost net investment financed by debt	3,197,175	3,197,175
3.	Add: a. Depreciation lost on items capitalized per books, expensed for tax purposes	369,123	369,123
	b. Increase in insurance reserve	84	84
	c. Depreciation on inter-company profits		160,394
4.	Deduct:		
	a. Payroll taxes capitalized	72,825	72,825
	b. Pensions capitalized	52,560	52,560
	c. Use taxes capitalized	130,516	130,516
5.	North Carolina taxable income	13,115,515	
6.	North Carolina income tax (L5, Column (a) x 6%)	$ 786,930	(786,930)
7.	Federal taxable income		12,488,979
8.	Federal income tax before surtax exemption, amortization of investment tax credit and amortization of Centel's deferred taxes (L7, Column (b) x 48%)		5,994,710
9.	Less:		
	a. Surtax exemption		3,723
	b. Investment tax credit amortized		234,297
	c. Centel's deferred taxes amortized		111,338
10.	Total Federal income tax		$ 5,645,352

The Commission concludes that the appropriate level of intrastate operating revenue deductions is $32,303,908, which includes operating expenses of $15,497,976, depreciation expense of $5,915,592, interest on customer deposits of $6,544, other operating taxes of $4,451,514, and State and Federal income taxes of $6,432,282.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13-15

Three witnesses were presented in the area of the cost of capital to the Company. The Company presented Thomas A. Owens, Jr., Vice President and Chief Financial Officer of Central Telephone and Utilities Corporation, and Robert S. Stich, Professor of Finance and Business Policy at the University of Missouri at St. Louis. Edwin A. Rosenberg, an economist, was presented by the Public Staff. Each witness testified as to his recommendations concerning the cost of capital and the cost of equity to the Company. Mr. Owens found that the cost of equity to the Company was 14.5% and that the overall cost of capital to the Company was 10.07% on an original cost basis. Dr. Stich found that the cost of equity to the Company was in the range of 14 1/2% to 15% with 15% being his recommendation. Based on the 15% cost of equity, the overall original cost of capital was 10.3%. Mr. Rosenberg recommended a return on original cost common equity of 12% and a return overall of 9.77%. Additionally, Mr. Rosenberg recommended the application of a double leverage approach to arrive at an effective capital structure upon which to base revenue requirements. Based on this effective capital structure, the overall cost of capital was 9.77% while the cost of common equity was 14%.

Mr. Owens and Dr. Stich based their recommendations on the capital structure and embedded cost rates of Central Telephone Company at December 31, 1976. Each witness used the comparable earnings approach to determine the cost of equity to the Company. Their approach was to compute the average returns on average book common equity over various periods of time for several groups of utility and nonutility companies and base their recommendations on these computations. Among the groups of firms used in their studies were the Moody's 125 industrials, the Standard and Poor's 400 industrials, the FPC Class A and B Electrics, and Moody's 24 utilities. The computation of these groups' average book equity returns showed that the average industrial firm had been able to earn an equity return of 12.5% over the 1966 to 1975 period (based on Stich Schedule No. 16 for the Standard and Poor's 400) with the utilities earning slightly less and the "Quality Groups" - defined by Dr. Stich as having high grade bonds or "average or above stock rankings" earning somewhat more on average (as much as 16.7% for the Standard and Poor's 400 firms whose stock is also ranked average and above by Standard and Poor's for the 1966 to 1975 period). Based on these studies, they concluded that the cost of equity to Central Telephone Company was conservatively 14 1/2% according to Mr. Owen and in the 14 1/2% to 15% range according to Dr. Stich.

In order for such recommendations to be accepted as required in order for the Company to be able to carry out its obligations to both ratepayers and its investors adequately, the Commission would have to be convinced that these were indeed reasonable returns on equity for an operating telephone company such as the Applicant. The

comparable earnings tests proposed in this docket may add some evidence but they cannot be accepted as sufficient in scope or weight upon which to base the rates charged the North Carolina ratepayers. Before such studies could be accepted, two facts must be clearly established. The first is that the book returns which are earned by these groups of firms actually represent their costs of equity. The second is that these groups are of generally comparable risk to Central Telephone Company. The Commission does not feel that either of these facts has been established. Dr. Stich's Schedule 11 demonstrates that the returns for the Standard and Poor's 400 were of sufficient magnitude to maintain market to book ratios around 2.0 in most years and even in the recession years of 1974 and 1975, the market to book ratio was 1.4. There is every indication therefore that the returns earned on average book common equity by these groups has been above the true cost of equity for these groups.

Additionally, there is very little to show that investments in these groups are in fact of reasonably similar or comparable risk to an investment in Central Telephone Company. Finally, both witnesses presented by the Company chose not to mention or consider in their analysis any possible effect on the cost of capital arising from the relationship between the Company and its parent Central Telephone and Utilities Corporation.

This relationship as noted by Mr. Rosenberg cannot be ignored in the determination of the cost of capital. In this instance the burden of proof falls on the Company to prove that it in fact requires a return of 10% or more on the original cost of its investment in order to be able to fulfill its obligations to ratepayers and investors. The Commission feels that the Company has failed to carry the burden and has failed to prove that such a level of return is required.

Mr. Rosenberg started his study with the premise that the cost of capital to the Company is determined by the Company's capital structure and the embedded cost rates for debt and preferred stock and that the cost of equity to the Company is determined by the cost to the parent, Central Telephone and Utilities Corporation, of providing equity capital. He then analyzed the costs associated with providing equity to the Company. These costs, he felt, were determined by the parent's capital structure, its own embedded cost rates for debt and preferred stock, and the parent's own cost of equity. Based on Central Telephone and Utilities Corporation's December 31, 1976, capital structure and embedded cost rates for debt and preferred stock and an estimated cost rate for Central Telephone and Utilities' equity of 14%, Mr. Rosenberg recommended that the Company be allowed to earn 12% on its book common equity and that an effective or double leverage capital structure be used to determine revenue requirements. Mr. Rosenberg's finding that the current cost of equity to Central Telephone and

Utilities Corporation is 14% was based on the results of a study which he made to determine the current cost of equity for a group of five telephone holding companies and one operating telephone company. This study consisted of performing a Discounted Cash Flow analysis on each of the companies to estimate its individual cost of equity and taking the average of these individual estimates as the average cost of equity for the group. There are of course differences among the companies in Mr. Rosenberg's group but these differences are small in comparison with the differences which exist between an operating telephone company and the groups which Mr. Owens and Dr. Stich used.

The Discounted Cash Flow technique which Mr. Rosenberg used to estimate the costs of equity for the companies in his group is subject to some criticism and must obviously be used with care. Mr. Rosenberg, however, has exercised reasonable care in its application in this case. He attempted to give weight to both the historic pattern of growth and the prospective growth over the near term future in his analysis, and his results are not in conflict with market reality.

Mr. Rosenberg has advocated that the avenue used to finance the operating subsidiary of a holding company must be considered in the setting of just and reasonable rates. The Company has maintained that only the financial position of the subsidiary, Central Telephone Company, need be of concern to this Commission. Mr. Rosenberg contends that the existence of the holding company structure might allow capital to be channeled to the operating companies at a lower cost than might be the case if they were unaffiliated. The Company contends that the Commission should ignore the relationship between the parent and the subsidiary in setting rates to the end that Central will be treated as if it were not a part of the CTU system.

When a holding company such as CTU makes an investment in the equity of its subsidiaries, the double leverage approach argues that such investments may be analyzed as if they were made using a mixture of the debt, preferred, and common equity funds of the corporation. The Company argues that it would be impossible for the Commission to trace the source and cost of funds used by each investor in every utility subject to its jurisdiction and the attempt to do so in this case would result in disparate treatment of the Company. Those who advance the double leverage concept argue that it is not necessary to account for the actual flow of funds or securities used to purchase or acquire the equity of the subsidiaries. Rather, once the acquisition has taken place, the transaction can be treated as if it were made using such a mix of funds.

It is clear from the record that CTU controls the operations and structure of Central Telephone Company. To imply that this Commission should ignore the relationship between the parent and the subsidiary in financing the

operations of the subsidiary is equivalent to asking the Commission to believe that the subsidiaries are in fact autonomous corporations and that no benefit is derived from the holding company form of structure.

While the Commission is of the opinion that weight should be given to the parent-subsidiary relationship in this case, the double leveraged capital structure advocated by witness Rosenberg will not be employed. The Commission is aware of the arguments both for and against the use of double leverage and believes that this complex issue requires further study and analysis before a final decision is made on its use as a rate-making tool.

Neither the Company nor the Public Staff included the Job Development Investment Tax Credit (JDC) as an addition to common equity. The Commission, however, consistent with its findings in recent rate proceedings, is of the opinion that JDC in the amount of $3,364,750 should be included in common equity.

The Commission has previously found (see Evidence and Conclusions for Finding of Fact No. 5) that the actual North Carolina intrastate portion of cost-free capital, for purposes of this proceeding, should be included in the capital structure at zero cost.

After incorporating the above in Central Telephone Company's capital structure at March 31, 1977, the Commission concludes that the appropriate capital structure for use in this proceeding is as follows:

Debt	37.99%
Preferred Stock	4.82
Common Equity	45.51
Cost-Free	11.68
	100.00%

The Commission further concludes that the cost rates to be associated with debt and preferred stock are the actual embedded cost rates of Central of 7.68% and 6.54%, respectively.

The Commission must also take into account the Company's fair value increment of $26,139,571 and the effect of adding this increment to the book equity component of the Company's capital structure. In so doing, the Commission is following the mandate of the North Carolina Supreme Court in State of North Carolina ex rel Utilities, et al. v. Duke Power Co., 285 N.C. 377,396 (1974), wherein it is stated:

"[T]he capital structure of the company is a major factor in the determination of what is a fair rate of return for the company upon its properties. There are, at least, two reasons why the addition of the fair value increment to the actual capital structure of the company tends to

reduce the fair rate of return as computed on the actual capital structure. First, treating this increment as if it were an actual addition to the equity capital of the company, as we have held G.S. 62-133(b) requires, enlarges the equity component in relation to the debt component so that the risk of the investor in common stock is reduced. Second, the assurance that, year by year, in times of inflation, the fair value of the existing properties will rise, and the resulting increment will be added to the rate base so as to increase earnings allowable in the future, gives to the investor in the company's common stock an assurance of growth of dollar earnings per share, over and above the growth incident to the reinvestment in the business of the company's actual retained earnings. As indicated by the testimony of all of the expert witnesses, who testified in this case on the question of fair rate of return, this expectation of growth in earnings is an important part of their computations of the present cost of capital to the company. When these matters are properly taken into account, the Commission may, in its own expert judgment, find that a fair rate of return on equity capital in a fair value state, such as North Carolina, is presently less than [the amount which the Commission would find to be a fair return on the same equity capital without considering the fair value equity increment]."

The Commission concludes that it is just and reasonable to take into consideration, in its findings on rate of return, the reduction in risk to Central's equity holders and the protection against inflation which is afforded by the addition of the $26,139,571 fair value increment to the book equity component. Considering the current investment market and the other testimony relating to rate of return, the Commission concludes that a rate of return of 7.30% on the fair value of Central Telephone Company'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 just and reasonable return of 8.37% on fair value equity, which includes both book equity and the fair value increment. The actual dollar return yielded by the return of 8.37% on the fair value equity will yield a return of 12.76% on book common equity.

Revenues which will be derived from Central's local service rates as approved herein when combined with the amounts of miscellaneous revenue and toll service revenues, including the additional toll service revenue Central will receive from Docket No. P-100, Sub 45, should produce a rate of return on its fair value rate base of 7.30%. The Commission cannot, of course, guarantee that the Company will, in fact, earn the rates of return herein allowed, but the Commission concludes that the Company will be able to reach that level of return through efficient management. The Commission, therefore, concludes that Central's local service rates should be increased $308,017, which will allow the Company a reasonable opportunity to earn the return on

its fair value rate base which the Commission has herein found fair and reasonable.

The Commission has considered the tests laid down by G.S. 62-133(b)(4). The Commission concludes that the $308,017 increase in revenues herein allowed is sufficient to enable the Company to attract sufficient debt and equity capital in order to discharge its obligations and achieve and maintain a high level of service to the public.

The following schedules summarize the gross revenues and the rates of return which the Company should have a reasonable opportunity to achieve, based upon the increase approved herein. Such schedules, illustrating the Company's gross revenue requirements, incorporate the findings, adjustments, and conclusions heretofore and herein made by the Commission.

EVIDENCE AND CONCLUSIONS FOR
FINDINGS OF FACT NOS. 17, 18, & 19

Four witnesses testified regarding the Applicant's proposed rate structure. Company witness Houck testified that the proposed rate structure was designed to distribute the requested additional revenues of $2,996,992 equitably among the various services offered by the Company to its North Carolina customers such that a greater portion of costs incurred by the Company would be recovered from the customers responsible for generating those costs. He also stated as an objective his intention to recognize value of service relationships among classes and grades of basic exchange service. He specifically proposed to increase charges for the basic telephone service components, extended area service components, service charges, special service arrangements, directory listings, semipublic booths, telephone answering switchboards, foreign exchange service and foreign central office service, key and pushbutton service, private branch exchange service, miscellaneous service arrangements, auxiliary equipment, connections with certain facilities and/or equipment of others, data service, mobile telephone service, private line and channels, optional calling plans, and obsolete service offerings. Mr. Houck stated that it was necessary to restructure the Company's extension rates because of the more permissive atmosphere created by the regulations in the FCC Docket No. 19528 which allows customers to connect their own extensions, when registered or grandfathered, to company facilities by means of a standard modular receptacle. It was his view that the Company's subscribers would ultimately benefit from a restructuring of extension rates wherein he proposed a reduction of all extension rates to $.85 per month. Mr. Houck stated, however, that there is an inherent problem in achieving a fair distribution of charges to Central's customers resulting from his recommendation to reduce extension revenues by $720,945 and to transfer the cost of the in-place inside wiring to the basic classes of service. He commented that future investments in inside

wiring would be recovered by the application of the proposed nonrecurring charge for inside wiring, if allowed, but would not affect the existing inside wiring.

Public Staff witness Willis testified that his assigned responsibility entailed reviewing the proposed structure of rates submitted by the Company with the exception of its extended area service (EAS), foreign exchange, foreign central office, extension line mileage, and local private line tariff proposals. He stated that he was not in accord with Central's proposal to reduce extension rates to $.85 per month. He pointed out that the Company's decision to propose these reductions precludes it from reducing its proposed residential one-party, business one-party and PBX trunk rates by approximately $4.60, $11.50, and $23.00 per year, respectively. He further showed that Central's requested increase on local exchange service component rates could be reduced to approximately 62% of the Company's proposal without affecting the Company's alleged revenue requirement, provided extension rates are left unchanged.

Mr. Willis stated that the Company's extension rates had grown at a rate greater than 10% for the year ending December 25, 1976, over the year ending December 25, 1975. Mr. Willis recommended that extension rates be left unchanged for the reasons that the Company did not present a study to indicate how its proposed adjustment in extension rates would optimize the Company's profits and ultimately benefit its subscribers as it suggested, that its extension development had continued to grow even with the threat of the pending FCC Registration program, and that an unfair distribution of revenue requirements for existing inside wiring would result from the Company's proposed tariff for extension rates thereby placing a burden on the local ratepayers.

Following the closing of the hearing on November 1, 1977, in response to a Commission Order in Docket No. P-100, Sub 46, on October 31, 1977, Central filed with the Commission an interim rate giving customers a monthly credit of $.85 per customer-provided extension instrument. This rate provided no credit for a main station instrument. The Commission issued an Order November 17, 1977, in Docket No. P-10, Sub 373, requiring Central to file a tariff allowing a reasonable credit when the main station telephone is provided by the subscriber. This the Company did and the tariff became effective November 27, 1977. The Commission takes official notice of its Orders in Docket Nos. P-100, Sub 46, and P-10, Sub 3733, and Central's responses thereto. The Commission by its Order of October 31, 1977, in Docket No. P-100, Sub 46, concluded that the tariffs filed in response to its Order should be subject to formal complaint and hearing and subject to investigation and recommendation by the Public Staff. The Commission adopts that conclusion in this Order and further concludes that the interim rate which became effective November 27, 1977, should remain in effect until the investigation by the Public Staff is

completed, the recommendation by the Public Staff based on further experience is made, and a hearing is held in that regard.

Mr. Willis also recommended the deletion of paragraph 3.2.3 of the Company's tariff provision which requires it to file with the Commission once a year, before January 31, a list of all exchanges with the average number of main stations, PBX trunks, and equivalents for the 12-month period prior to January 1, and the number of main stations, PBX trunks, and equivalents for the end of period, indicating which have exceeded or fallen below its rate group or EAS component classification. Mr. Willis testified that this requirement is time-consuming and tends to motivate some companies to file for automatic regrouping of exchanges, which is accompanied by an increase in revenue without the public's having the advantage of notice of hearing, and, further, that the filing of this information is superfluous since it is routinely provided in rate proceedings.

Public Staff witness Gerringer testified regarding his recommendations on the revisions in the EAS Rate Components proposed by Mr. Houck. Mr. Gerringer basically agreed with the proposed revisions but conditioned his recommendation regarding the increase in the residence components on whether there was a requirement for additional revenues for the Applicant.

In the area of service charges, Mr. Houck proposed a revised service charge format, increases in the level of charges to the actual costs of the required operations, an extension of the time payment plan for the payment of service charges, and a customer pickup and return plan designed to allow the customer to participate in service activity involving his telephone sets and to receive credit for that activity. The Applicant used a repression factor in the calculation of additional revenue to be derived from the proposed increases in service charges.

Mr. Houck clarified Central's position on the rate effect of the addition of Claremont to the Hickory calling scope, indicating that the Company favored establishing the Hickory rates in accordance with the EAS plan approved in this case.

Public Staff witness Carpenter testified regarding his evaluation of the Applicant's proposals for changes in service charges and other nonrecurring charges, changes in rates for additional directory listings, long cords, telephone answering service facilities, and mileage services. Mr. Carpenter presented an alternate format for the application of service charges which he recommended in lieu of the Applicant's proposal. The format recommended by Mr. Carpenter included separate charges for central office work and line work. Mr. Carpenter also suggested a reduction in the installation charge for jacks and in the Schedule B charges for long cords and the integration of

these charges with the basic service charges. Mr. Carpenter proposed the application of service charges to requests for the establishment of additional directory listings and nonpublished numbers instead of the increase in the monthly rates proposed by the Applicant.

Mr. Carpenter suggested an increase less than the increase proposed by the Applicant in the rate for telephone answering service switchboards. He also suggested that the station development report which is filed monthly with the Commission be based on units in service at the end of each month in order to eliminate problems with reconciliation of units during rate case activity.

Mr. Carpenter opposed the use of the 25% repression factor proposed by the Company for use in calculation of additional nonrecurring charge revenues. He pointed out that the Applicant had not presented any evidence in support of the use of a repression factor and had not proposed any adjustments in expenses to reflect a repressed level of service activity. He proposed an end-of-period adjustment to nonrecurring charge units to be used in additional revenue calculations.

Based on the testimony and exhibits of Mr. Houck, Mr. Willis, Mr. Gerringer, and Mr. Carpenter, the Commission concludes that the additional $308,017 in local service revenues approved herein should be derived pursuant to the following guidelines:

1. Basic Rate Design

The Commission concludes that only a small portion, if any, of the increase in local service revenues approved herein need be obtained from the Local Exchange Service Components of each exchange applicable to all subscribers to basic local telephone service. The Commission further concludes that the proposed changes in the Extended Area Service Components, increasing the residence component and establishing a separate matrix at an increased level for the business components, are a desirable means of producing additional revenue.

The Commission concludes that other changes in relationships among basic local rates, such as the proposed change in the key trunk ratio, are not appropriate at this time since they will cause a disproportionate increase in the higher-rated services.

The Commission concludes that the exchanges which had outgrown their rate groups and EAS Component classifications at the end of the test period should be regrouped and reclassified according to the group sizes established in the applicants' last rate proceeding.

Hickory exchange rates should reflect the addition of Claremont to the Hickory calling scope. The additive to the

Hickory rates should be established in accordance with the Applicant's EAS plan as modified in this proceeding.

2. Service Charges

The Commission concludes that a service charge format should be implemented substantially as proposed by the Public Staff since it provides a more equitable basis for the application of service charges. The Commission concludes that separate nonrecurring charges should be established for inside wiring and jacks and that no change should apply for the conversion of a connector block or four conductor jack to a standard modular jack. Changes in the nonrecurring charges for cords should be made as recommended by the Public Staff.

The Commission concludes that the additional revenue to be derived from increased service charges should be calculated without the use of a repression factor.

The Commission concludes that the Customer Pickup and Return Plan proposed by the Applicant in this case is not suitable for implementation with the service charge schedule herein found to be just and reasonable. The Commission concludes that the plan should be disapproved without prejudice to the Applicant's filing on 30 days' notice a revised plan suitable for implementation with the service charge schedule approved in this case.

3. Other Local Services

The Commission concludes that certain increases in rates and charges applicable to miscellaneous services, auxiliary equipment, and similar service offerings are appropriate but that these should not exceed 33 1/3%.

IT IS, THEREFORE, ORDERED:

1. That the Applicant, Central Telephone Company, be, and hereby is, authorized to adjust its North Carolina local exchange telephone rates and charges as set forth below to produce, based upon stations and operations as of December 31, 1976, an increase in annual gross revenues not to exceed $308,017.

2. That the Applicant and the Public Staff are hereby called on to propose specific tariffs reflecting changes in rates, charges, and regulations to recover the additional revenues approved herein in accordance with the conclusions set forth above within 10 days from the date of this Order. Exceptions and comments to said proposed tariffs shall be filed within five days thereafter.

3. That the rates, charges, and regulations necessary to produce the additional annual gross revenues authorized herein shall become effective upon the issuance of a further

Order approving the tariffs filed pursuant to Paragraph 2 above.

4. That Central shall file an appropriate revision to delete the requirements found in Section 3, pages 2 and 2.1, paragraph 3.2.3 of the Company's filed tariffs at the time indicated in ordering paragraph 2. Further, that the definition of main station, or main telephone found in paragraph 3.2.3 be incorporated in Section 1, Definition of Terms, page 15, under paragraph (c)(1), replacing the existing definition of main station.

5. That all proposed charges 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.

6. That Central shall take the appropriate corrective action to improve its overall efficiency with respect to the trouble areas of its operations as noted under Evidence and Conclusions for Finding of Fact No. 4.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of April, 1978.

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

DOCKET NO. P-55, SUB 768

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Southern Bell Telephone and Telegraph Company for an Adjustment in its Rates and Charges Applicable to Intrastate Telephone Service in North Carolina	) ORDER) SETTING) RATES AND) CHARGES

HEARD IN: Old Community Building, North Main Street, Salisbury, North Carolina, on November 8, 1977; Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on November 9, 1977; and in the Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on December 8, 13, 14, 15, and 16, 1977, and on January 4, 5, 6, 10, 11, and 12, 1978

BEFORE: Commissioner Edward B. Hipp, Presiding, and Commissioners Sarah Lindsay Tate and Robert Fischbach

APPEARANCES:

For the Applicant:

R. C. Howison, Jr., Joyner & Howison, Attorneys at Law, Suite 906, Wachovia Bank Building, Raleigh, North Carolina 27601

R. Frost Branon, Jr., General Attorney, Southern Bell Telephone and Telegraph Company, P. O. Box 240, Charlotte, North Carolina 28230

Robert W. Sterrett, Jr., Solicitor, Southern Bell Telephone and Telegraph Company, 1245 Hurt Building, Atlanta, Georgia 30303

For the Intervenors:

Vaughan S. Winborne, Attorney at Law, 1108 Capital Club Building, Raleigh, North Carolina 27601
For: Charlotte Telephone Answering Service, Inc., and Other Listed Telephone Answering Services

Dennis L. Myers and Dennis K. Muncy, Attorneys at Law, 1400 Anthony Drive, P. O. Box 1003, Champaign, Illinois 61820
For: Telephone Answering Services

Thomas R. Eller, Jr., Attorney at Law, 3301 Executive Drive, 104 Finley Building, Raleigh, North Carolina 27602
For: North Carolina Textile Manufacturers Association, Inc.

I. Beverly Lake, Jr., Lake & Nelson, Suite 310 - Raleigh Building, P. O. Box 1306, Raleigh, North Carolina 27602
For: Sonitrol of East Carolina, Incorporated

Jesse C. Brake and Richard L. Griffin, Office of the Attorney General, North Carolina Department of Justice, P. O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Jerry B. Pruitt, Chief Counsel, and Dwight W. Allen, Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27608
For: The Using and Consuming Public

BY THE COMMISSION: This matter is before the Commission upon the application of Southern Bell Telephone and Telegraph Company (Southern Bell, Bell, the Company) filed on August 18, 1977, for authority to increase its rates and charges on local exchange service and on its intrastate toll, wide area telephone service (WATS), and interexchange private line service. The application proposes a total increase in revenues of $65,159,964 per annum. Bell asserts

that the effect of this increase to Bell will be $53,714,964 per year after settlements with the independent telephone companies operating in North Carolina.

On August 19, 1977, the Attorney General of North Carolina gave Notice of Intervention in the proceeding; the Commission recognized the Attorney General's Intervention by Order issued on August 23, 1977.

The Public Staff - North Carolina Utilities Commission gave Notice of Intervention on September 2, 1977, and by Order issued on September 7, 1977, the Commission recognized the Public Staff's Intervention.

On September 7, 1977, the Commission set the application of Southern Bell for investigation and hearing in Docket No. P-55, Sub 768, suspended the proposed rates, established and declared the test period to be the 12 months ended May 31, 1977, and required the Company to give notice of the application to the public.

The Commission scheduled hearings as follows: November 8, 1977, in the Old Community Building, Salisbury, North Carolina; November 9, 1977, in the Buncombe County Courthouse, Asheville, North Carolina; and December 6-9, 1977, December 13-16, 1977, January 4-6, 1978, and January 10-13, 1978, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina.

Southern Bell's request for authority to adjust its intrastate toll, WATS, and interexchange private line rates and charges was separated from this proceeding and placed in Docket No. P-100, Sub 45 for investigation and hearing, with all other telephone companies under the jurisdiction of the Commission made parties thereto.

By Order issued September 8, 1977, the Commission required Southern Bell to publish in newspapers having general circulation in its service area an initial 30-day notice to customers as required by G.S. 62-81(b). The notice was to be published by September 19, 1977. This Order was issued in response to Southern Bell's Motion, filed simultaneously with its application, that the 30-day written notice of intent to file general rate case be waived.

Additional Intervenors in this proceeding and the dates of their motions to intervene include the following: (1) North Carolina Textile Manufacturers Association, Inc., November 14, 1977; (2) telephone answering services including Charlotte Telephone Answering Service, Inc., Telephone Answering Service, Inc., Answer-Phone, Inc., Answering Services, Inc., Telephone Answering Service, Inc., of Greensboro, Telephone Answering Service, Inc., of Burlington, Answering Charlotte, Inc., Ans-A-Phone Communications, Inc., Answerphone, Inc., and Telephone Answering Service, November 23, 1977; (3) American District

Telegraph Company, November 28, 1977; and (4) Sonitrol of East Carolina, Incorporated, December 12, 1977.

The Commission issued an Order on December 1, 1977, setting forth the procedure for receiving testimony in the general rate case, Docket No. P-55, Sub 768, and in the intrastate toll proceeding, Docket No. P-100, Sub 45.

On December 15, 1977, a Motion and Application was filed asking that Dennis L. Myers, attorney in the State of Illinois, be permitted to appear in this docket and participate in the proceedings in association with North Carolina counsel Vaughan S. Winborne representing the telephone answering services. On December 16, 1977, the Motion was amended to include Dennis K. Muncy, a member of Mr. Myers' firm.

The matter came on for hearing at the times and places listed above. All parties were present and represented by counsel.

Southern Bell offered the testimony of the following witnesses: John J. Brooks, General Revenue Supervisor, Southern Bell, with respect to the benefits of the License Contract; Robert T. Burns, General Revenue Supervisor, Southern Bell, with respect to erosion of earnings; William F. Dyer, Jr., Rate and Tariff Supervisor, Southern Bell, with respect to the proposed rate schedules other than private line channels; Robert A. Friedlander, Rate and Tariff Supervisor, Southern Bell, with respect to the private line rate schedule; Robert L. Johnson, Professor, University of South Dakota, with respect to cost of capital; and Michael Landau, Assistant Engineering Manager - Price Comparison Methods, American Telephone and Telegraph Company (AT&T), with respect to price comparisons between Western Electric Company and other companies. Also, testifying on behalf of Southern Bell were Henry S. Pino, General Manager, Corporate Analysis - Regulatory Matters Division, Western Electric Company, regarding the earnings of Western Electric Company; Harold M. Raffensperger, Project Manager in Service Costs, Southern Bell, regarding multi-element service connection cost study; Graham K. Ragland, Manager - License Contract and Regulatory Matters, AT&T, regarding the organization of the Bell System and the cost of services rendered by AT&T under the license contract; Frank J. Schwahn, Project Manager in Southern Bell's cost organization, regarding the private line cost study; Franklin B. Skinner, Vice President and General Manager, Southern Bell, regarding the North Carolina operations of Southern Bell; Roderick G. Turner, General Accountant, Southern Bell, regarding the North Carolina intrastate operating results; and A. Max Walker, Vice President - Revenue Requirements for Southern Bell, regarding cost of capital and rate of return. After the completion of testimony by the other parties, Southern Bell offered rebuttal testimony of Mr. Turner concerning benefits flowing to Southern Bell from the pool of funds maintained by AT&T.

Witnesses testifying for the Public Staff included: Nancy B. Bright, Staff Accountant, concerning test-period original cost net investment, revenues, expenses, and return on original cost net investment and common equity under present and proposed rates; Millard N. Carpenter, III, Rate Analyst, concerning service charges, intraexchange mileage services and telephone answering service facilities; James S. Compton, Telephone Engineer, concerning overall quality of service; Hugh L. Gerringer, Telephone Separations and Settlements Engineer, concerning allocations between interstate and intrastate operations and the determination of Southern Bell's representative level of intrastate toll settlements; J. Craig Stevens, Director, Consumer Services, concerning service complaints relating to Southern Bell; Curtis Toms, Jr., Staff Accountant, concerning computation of the working capital allowance; Benjamin R. Turner, Jr., Telephone Engineer, concerning central office and trunk engineering, operating expenses, and plant investments; and William J. Willis, Jr., Rate and Tariff Engineer, concerning his review of the proposed rate structure.

The Attorney General offered the testimony of the following witnesses: Charles P. Jones, Associate Professor, North Carolina State University, with respect to cost of capital and fair rate of return; Elizabeth Fischer, with respect to a public opinion survey of students at the University of North Carolina at Chapel Hill; Craig Brown, with respect to the impact of the proposed increases on students; W. Bain Jones, Jr., with respect to directory assistance charges and obsolete phone books; and John Temple, with respect to installation charges, particularly as they affect dormitory students.

Intervenor North Carolina Textile Manufacturers Association offered testimony and exhibits of E. B. Grogan, J. P. Stevens and Company; Louis R. Jones, Burlington Industries; W. E. Harrelson, Texfi Industries, Inc.; and R. Larry McCullough, Cone Mills Corporation, with respect to Southern Bell's rate structure proposals. This Intervenor also called Joseph Smith of the Commission Staff regarding Bell's rate of return and other financial data compiled from the quarterly surveillance reports furnished by Bell at the request of the Commission.

Intervenor American District Telegraph Company presented the testimony of William McLester, City Manager, with respect to the impact of Southern Bell's proposed adjustments in local private line rates upon his alarm company. Ken Edwards testified on behalf of Sonitrol of East Carolina, Incorporated, with respect to local private line rates and security services. P. H. Moody, Ans-A-Phone Communications, Inc., with respect to installation charges for the customer lines or secretarial lines.

Numerous public witnesses appeared at the hearing to voice opposition to the proposed rate increases, particularly the proposals on installation charges. Some public witnesses

also expressed concern that the increased rates would be particularly burdensome on persons on fixed incomes. Witnesses with specific complaints concerning their personal telephone service were referred to the appropriate representatives of the Company and the Public Staff.

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

FINDINGS OF FACT

1. Southern Bell is a duly franchised public utility providing telephone service to its subscribers, is a duly created and existing corporation authorized to do business in North Carolina, and is lawfully before the Commission in this proceeding for a determination as to the justness and reasonableness of its rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. The total increases in rates and charges proposed in Southern Bell's application would have produced approximately $41,058,368 in additional annual gross local service revenues. (The application for intrastate toll increases and settlements is the subject of Docket No. P-100, Sub 45.)

3. The test period for the purpose of establishing rates in this proceeding is the 12-month period ended May 31, 1977, which was designated as the test period by the Commission's Order of September 8, 1977.

4. The overall quality of service provided by Southern Bell is good.

5. Southern Bell's telephone plant in service investment and the operation of that plant is both reasonable and efficient.

6. The original cost investment of the North Carolina intrastate telephone plant in service of Southern Bell Telephone and Telegraph Company is $949,819,079. The accumulated provision for depreciation is $192,561,786. The telephone plant acquisition adjustment of $5,293,195 less the amortization of $351,510 should be included in the calculation of the reasonable original cost net investment. The reasonable original cost less depreciation and amortization of Southern Bell's intrastate telephone plant in service is $760,331,357.

7. The reasonable allowance for working capital is $6,909,897.

8. The reasonable fair value of Southern Bell's utility plant used and useful in providing intrastate telephone service in North Carolina is the depreciated original cost

of the plant plus a reasonable allowance for working capital. The Commission finds that the fair value of said utility plant devoted to intrastate telephone service in North Carolina is $760,331,357 plus the addition of a reasonable allowance for working capital of $6,909,897. The reasonable fair value of Southern Bell's property in service to North Carolina customers is $767,241,254.

9. The appropriate gross revenues net of uncollectibles for Southern Bell for the test period are $339,755,346 under present rates and under Company proposed rates would have been approximately $401,734,882 including the increase requested in intrastate toll rates, before the annualization adjustment.

10. The level of operating revenue deductions after accounting and pro forma adjustments (including taxes, interest on customer deposits, and the annualization adjustment) is $284,629,260. This amount includes $55,787,767 for actual investment currently consumed through reasonable actual depreciation on an annual basis.

11. The fair rate of return which Southern Bell should have the opportunity to earn on the fair value of its North Carolina intrastate investment is approximately 8.90%.

12. The capital structure used by the Commission for Southern Bell at May 31, 1977, is:

Total Debt	41.51%
Preferred Equity	1.90%
Common Equity	47.00%
Cost-Free Capital	9.59%

13. The Company's original cost equity ratio is 47.00% and its fair value equity ratio is 47.00%.

14. The proper embedded cost rates are 6.78% for debt and 7.58% for preferred equity. The fair rate of return which should be applied to the Company's fair value investment is approximately 8.90%, which includes a rate of return on the Company's fair value common equity of approximately 12.64%.

15. In addition to the toll revenues determined in Docket No. P-100, Sub 45, Southern Bell should be allowed an increase in local service revenues of $6,710,118 in order to have a reasonable opportunity, through prudent and efficient management, to earn the 8.90% rate of return on the fair value of its property in service to North Carolina customers.

16. Southern Bell's present method of determining the amount of interest during construction (IDC) capitalized, while adequate for purposes of this proceeding, fails to recognize the interrelationship between capital utilized for rate case purposes and the capital components of IDC.

17. The service charges proposed by Southern Bell are excessive and unreasonable and not adequately supported by the evidence presented in this proceeding.

18. The increases in rates and charges applicable to intraexchange mileage services proposed by the Company are excessive and could impose an unreasonable burden on subscribers of such services.

19. The increases in rates proposed by the Company for some items of equipment furnished to telephone answering services are unreasonable and excessive.

20. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the guidelines set forth in Appendices A and B, which will produce additional annual revenue of $6,710,118, will be just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This Finding of Fact is essentially procedural in nature, was not contested by any party at the hearing, and does not require further discussion in this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

This support for this finding is found in Southern Bell's application and in the testimony of Public Staff witness Millard N. Carpenter, III. The Company's application showed annual revenue from the proposed local service rate increase of $40,125,008, which included an increase of $5,886,491 in Private Line Service, Channels, and Equipment. Of this $5,886,491, equipment charges account for $182,497 and intraexchange mileage services charges account for the remaining $5,703,994.

Public Staff witness Carpenter testified that the $5,703,994 increase in intraexchange mileage services revenues was calculated by the Company based on estimated units. He stated that in response to a Public Staff request, Southern Bell furnished a detailed breakdown of present and proposed units and revenues. The recurring units and revenues were as of the end of September 1977 and the nonrecurring units and revenues were based on a study of the months of June and July 1977. Mr. Carpenter testified that the revised data results in total additional revenues to be derived from local channel services of $6,640,692 and recommended that the revised units and revenues be used as a base for any rate and revenue adjustments for Southern Bell in this proceeding since detailed test-period data is not available. Mr. Carpenter was not cross-examined by the Company on this recommendation.

The Commission concludes from the evidence presented that the rates and charges proposed by Southern Bell for Private Line Service, Channels, and Equipment will produce $6,823,189 in additional annual gross revenues, consisting

of $6,640,692 in intraexchange mileage services charges and $182,497 in equipment charges.

When this total increase in revenue of $6,823,189 for Private Line Service, Channels, and Equipment is combined with the additional increases proposed for all other local rates and charges, the resulting total annual increase in local service rates and charges proposed by the Company is $41,058,368.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The support for this Finding of Fact is found in Southern Bell's application and throughout the record in this docket. This finding was not contested and does not warrant further discussion in this Order.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence as to the quality of telephone service provided by Southern Bell is contained in the testimony of various public witnesses, Southern Bell witness Skinner, and Public Staff witness Compton.

Witness Skinner stated that Southern Bell is committed to providing good telephone service and that the Company is meeting its customers' service needs promptly and effectively. In his opinion, Southern Bell is providing high quality service to its North Carolina customers.

Public Staff witness Compton presented the results of the Public Staff's investigation into the quality of service provided by Southern Bell. The evidence offered by the Public Staff indicates that the overall quality of Bell's service is adequate. However, the Public Staff's evaluation shows that some improvement should be made in the following areas:

(1) Local completion: Chapel Hill and Mint Hill

(2) EAS completion: Burgaw, Chapel Hill, Charlotte (Caldwell Street), Enka, and Huntersville

(3) DDD completion: Chapel Hill, Forest City, Kimesville, and Pembroke

(4) EAS noise: Hamlet, Huntersville, and Salisbury

(5) DDD noise: Anderson and Chapel Hill

Two public witnesses indicated that they had experienced unusual service problems. Public witness S. J. Cofield of Greensboro indicated that he had experienced difficulty obtaining 24-hour service on certain private line equipment, particularly during nonbusiness hours. He expressed the opinion that service generally diminishes following a rate increase. Public witness Carl E. Loye of Greensboro

discussed problems he has incurred in obtaining technical information from the Company relating to changes from "hard wire" DC alarm loops to AC signal circuits.

Based on a review of the entire record, the Commission concludes that the overall quality of service rendered by Southern Bell is good. The Commission understands that Company representatives met with witnesses Cofield and Loye at the hearing in Salisbury and that their problems have been satisfactorily resolved. The Company, of course, should take steps to remedy the problems revealed by the Public Staff's service evaluation tests.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence as to the plant investment and the efficiency with which that plant is managed is contained in the testimony of Company witness Skinner and Public Staff witness Turner.

Witness Skinner expressed concern about the increased costs of providing telephone service and the resulting impact on the Company's earnings. These increased operating costs result from, among other things, inflation, labor costs, depreciation expenses, taxes, interest on capital, installer truck prices, directory paper, first class postage, and gasoline. Witness Skinner reported that several steps have been taken to control operating costs. For example, the number of employees in the State has been reduced by 400 while the Company has gained over 77,000 new customers. This reduction in work force is due primarily to the reduced requirement for telephone operators, the reduction in number of operator handled calls, and the establishment of automatic intercept service.

Witness Skinner concluded by saying that the Company is operating its business in an efficient manner, that the demand for service is strong, and that record levels of expenditures will be required for future construction.

Witness Turner presented the results of the Public Staff's investigation of the Company's operations. This included an analysis of central office engineering, trunk engineering, operating expenses, and plant investments.

He stated that central office additions were timed properly and were designed to be utilized within a reasonable period.

Although Southern Bell's commitment is to continue to purchase electronic common-control analog switching systems or ESS, Mr. Turner recommended that the Company study the possible application of digital class 5 switching equipment. He indicated that the potential savings from the use of digital switches is great and that Southern Bell should seriously consider the use of digital class 5 central offices in its North Carolina operations.

The Public Staff's review of operating expenses included an analysis of traffic, commercial, and maintenance expenses. The traffic expense review revealed some improvement in productivity with a lower cost per call. Inward and outward activity had increased for commercial expense with a corresponding increase in the number of employees but with an increase in the average number of stations per commercial employee. Maintenance expense showed some improvement in productivity although the operating expenses, as a percentage of average plant in service, have been steadily increasing.

Witness Turner explained that plant investments were analyzed for the period 1970 through 1976. The number of stations gained increased slowly during 1974 and 1975 although station growth rate recovered during 1976. Gross plant added per station gained in 1976 and in the test year declined as compared to the $2,207 peak in 1975. The amount of plant per station at year-end increased from 1970 through 1976. The change in the amount of investment per station, at year-end, peaked at $50.00 in 1974 and declined to $11.00 in the test year.

The Commission concludes that the Company's investment in North Carolina is reasonable and sufficient to provide telephone service and that the management of the North Carolina operations is efficient. Southern Bell should make an effort to stay abreast of technological developments in the communications industry both within and without the Bell System. The Commission is of the opinion that a comprehensive economic study of digital central office switching systems should be undertaken by Southern Bell in North Carolina. The study should include all elements needed for the full integration of digital class 5 central offices into the existing switching network compared to an equivalent ESS class 5 central office.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The testimony and exhibits presented by Company witness Turner and Public Staff witness Bright set forth the original cost of Southern Bell's intrastate telephone plant in service. The following chart summarizes what each of these witnesses contends is proper for this item:

Item	Company Witness Turner (a)	Public Staff Witness Bright (b)
Investment in telephone plant in service	$949,819,079	$949,819,079
Telephone plant acquisition adjustment	5,293,195	5,293,195
Plant held for future use	250,957	-
Total investment	955,363,231	955,112,274
Less: Accumulated provision for depreciation	189,549,003	192,561,786
Amortization of plant acquisition adjustment	351,510	351,510
Unamortized investment tax credits - pre-1971	-	2,781,697
Accumulated deferred income tax	-	74,589,843
Customer deposits	-	1,867,624
Net investment in telephone plant in service	$765,462,718	$682,959,817

As the chart shows, both witnesses agree that the gross original cost of the intrastate telephone plant in service is $949,819,079. Accordingly, the Commission concludes that gross original cost of telephone plant in service is $949,819,079. Both witnesses agree that the telephone plant acquisition adjustment should be included in calculating the net investment in telephone plant in service. Public Staff witness Bright testified that the telephone plant acquisition adjustment represents the difference between the acquisition price of Chapel Hill Telephone Company and the net original cost of the Chapel Hill properties. Ms. Bright also testified that, since Southern Bell was ordered to place a good faith bid and did not request to make the purchase, she recommended that the Company be allowed to earn a return on the unamortized portion of the acquisition adjustment and to amortize the cost to operating expenses over a period of 15 years.

The Commission concludes that the circumstances concerning the acquisition adjustment in this proceeding are different from the usual circumstances involving acquisition adjustments and, therefore, that it is appropriate to include Southern Bell's plant acquisition adjustment in Southern Bell's net investment in telephone plant in service in this case.

This conclusion should not be considered an indication of Commission policy regarding the handling of acquisition adjustments for rate-making purposes in future proceedings. Future requests concerning acquisition adjustments will be decided on the basis of the facts presented in each case.

The first difference between the two witnesses is plant held for future use for which Company witness Turner includes the amount of $250,957. Mr. Turner maintained that

property held for future use should be included in calculating the original cost net investment plus allowance for working capital. It was his position that investment in property held for future use is as important in providing telephone service to customers as telephone plant currently in service. Witness Turner contended that funds used to purchase these properties are provided by the investor and that exclusion of this item from the original cost net investment would result in the Company's being denied an opportunity to earn a return on the capital provided by the investor for this purpose. The Company's total intrastate property held for future use amounted to $836,551. However, Mr. Turner made a pro forma adjustment eliminating $585,594 from the account leaving $250,957. He thus excluded all such property except that for which specific plans had been detailed and the property would go in service in two years or less. Staff witness Bright excluded this item, as the Commission has done in prior cases, in developing her original cost net investment.

The Commission is of the opinion that G.S. 62-133(b)(1) does not permit inclusion of property held for future use in determining plant in service. The Commission interprets this statute to mean that only plant which is in service is, in fact, "used and useful" and that this term does not include property held for future use. Consistent with previous Commission policy, property held for future use in the amount of $250,957 as advocated by the Company will be excluded from the original cost net investment.

Both witnesses agree that the depreciation reserve should be included as a deduction in calculating the original cost net investment. The witnesses do not agree, however, on the amount to be deducted. Both witnesses made an adjustment decreasing the reserve by $33,258 to reflect the finalization of the Chapel Hill purchase. Both witnesses also made adjustments to the depreciation reserve based on the adjustments made to bring depreciation expense to an end-of-period level and to reflect the represcription of the depreciation rates. Since the Commission, in Evidence and Conclusions for Finding of Fact No. 10, has found it proper to include the adjustment of $9,844,365 made by Ms. Bright to annualize depreciation expense using the new depreciation rates, the Commission finds it entirely consistent and proper to make the corollary adjustment of $9,844,365 to accumulated depreciation. The Commission, therefore, concludes that the following calculation of accumulated depreciation of $192,561,786 is appropriate for use herein:

Item	Amount (a)
Accumulated depreciation per books at May 31, 1977	$182,750,679
Adjustment for finalization of Chapel Hill purchase	(33,258)
Adjustment for increase in depreciation expense to end-of-period level	9,844,365
Total end-of-period accumulated depreciation	$192,561,786

The remaining difference of $79,239,161 between Company witness Turner's net investment in telephone plant in service of $765,462,718 and Public Staff witness Bright's net investment in telephone plant in service of $682,959,817 results from the fact that witness Bright deducted unamortized investment tax credits - pre-1971 of $2,781,697, accumulated deferred income taxes of $74,589,843, and customer deposits of $1,867,621.

Witness Bright testified that Company witness Walker included the two items of unamortized investment tax credits - pre-1971 and accumulated deferred income taxes as cost-free capital in determining his capital structure and overall cost of capital. Witness Bright testified that, if she had included these cost-free items in the capital structure at zero cost and had allocated the original cost net investment to each component of the capital structure, it would have had the effect of assigning a portion of this cost-free capital to construction work in progress and other nonrate base assets. Witness Bright also described the origination of each of these two cost-free items. She testified that the unamortized investment tax credits are realized under the Revenue Act of 1962, which provides for a reduction in the income tax liability of utilities to the extent of 3% of the cost of qualifying property acquired during a taxable year. She also noted that this Commission has previously issued a general rule-making Order which permitted utilities to follow what is commonly referred to as a "Normalization Accounting" procedure for investment tax credits. Under this accounting procedure, the Company records a Federal income tax expense greater than the amount of tax actually paid. This difference between book income taxes and actual income taxes is recorded as a corresponding credit in a balance sheet account, unamortized investment tax credits. This investment tax credit related to the Revenue Act of 1962 is deferred and amortized as a reduction of Federal income tax expense over an appropriate period of time. Since the balance of this unamortized investment tax credit is a source of cost-free capital which has been provided by the ratepayers, witness Bright stated that it should be deducted in calculating the original cost net investment. Witness Bright further testified that accumulated deferred income taxes result from normalizing the tax effect of accelerated depreciation. Again, by using the "Normalization Accounting" procedure, the Company

reflects, for financial reporting and rate-making purposes, a greater Federal income tax expense than it actually pays. For example, the Company uses an accelerated method of depreciation to calculate the depreciation deduction in determining its actual income tax liability. However, income tax expense for rate-making purposes is calculated by using a depreciation deduction based on the straight-line method of depreciation. Thus, the income tax expense for rate-making purposes is calculated without giving effect to the accelerated depreciation. The excess of the normalized tax expense (based on straight-line depreciation) over the actual tax liability (based on accelerated depreciation) is recorded in the accumulated deferred income taxes - accelerated depreciation account. Until such time as the actual tax liability exceeds the book income tax expense, the Company has use of this cost-free capital. Witness Bright stated that, in substance, the ratepayer has paid in through the rate structure a cost that the Company has not incurred and will not incur until such time as straight-line book depreciation exceeds tax depreciation. She stated that accumulated deferred income taxes represent a source of cost-free capital and as such should be deducted in calculating the original cost net investment.

Company witness Walker also testified as to the propriety of deducting cost-free capital from the rate base or including these funds at zero cost in the capital structure. He stated that either of the above treatments of cost-free capital would be proper and the resulting revenue requirements would be identical if the rate base and total capital were equal. However, such is not true in the current case. Witness Walker testified that deferred taxes and the pre-1971 investment tax credit are sources of capital, not uses of capital, and should be treated as such in the capital structure, along with the debt, equity, and preferred stock. He concluded that, of even greater importance, the capital dollars are not earmarked and dollars spent for any type of plant whether it be plant in service or plant under construction come from all sources, debt, preferred, and equity, as well as from cost-free sources.

The Commission is aware that in the case of a telephone company such as Southern Bell the difference in the treatment of cost-free capital does not make a substantial difference in the revenue requirements which are ultimately found just and reasonable by the Commission. The Commission also recognizes that the treatment of cost-free funds has a profound effect on today's cash flow in the case of an electric utility. The Commission concludes that in this proceeding cost-free capital will be included in the capital structure at zero cost as in prior cases and that further judgment of the propriety of deducting cost-free capital from the rate base will be deferred until the issue is raised in an electric utility general rate proceeding in the future.

Witness Bright also deducted customer deposits because they represent customer supplied funds. The Company is entitled and should be permitted to recover its actual interest cost associated with these deposits. Accordingly, interest on customer deposits was included as an operating expense. Witness Bright stated that failure to deduct customer deposits in determining the original cost net investment will permit the Company to earn the overall rate of return found fair by the Commission on these funds, instead of the lower interest cost actually incurred on customer deposits. Her treatment insures that the Company will recover the actual interest accrued on customer deposits and no more. Company witness Turner deducted customer deposits in determining his working capital allowance, which has the same effect as Ms. Bright's method of reducing plant in service by the amount of customer deposits.

The Commission concludes that the deduction of customer deposits from investment in telephone plant in service as recommended by witness Bright is appropriate.

Based on all the testimony and evidence presented in this case, the Commission concludes that the reasonable original cost net investment of Southern Bell's telephone plant in service is $760,331,357 consisting of telephone plant in service of $949,819,079, the telephone plant acquisition adjustment of $5,293,195, less accumulated depreciation of $192,561,786, amortization of the plant acquisition adjustment of $351,510, and customer deposits of $1,867,621.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Company witness Turner and Public Staff witness Toms each presented a different amount for the working capital allowance as shown by the chart below:

Item	Company Witness Turner	Public Staff Witness Toms
Cash (1/12 operating expenses)	$13,279,500	$ -
Average daily cash balance	-	1,531,600
Materials and supplies	7,008,042	7,008,042
Average prepayments	4,759,337	-
Average tax accruals	(13,557,079)	-
End-of-period customer deposits	(1,867,621)	-
Investor funds advanced through operations	-	664,796
Accounts payable - materials and supplies	-	(2,741,364)
Accounts payable - telephone plant in service	-	(1,234,653)
Total	$ 9,622,179	$5,228,421

The difference of $4,393,758 in the amount of working capital presented by each witness results from the different methods employed in determining the working capital allowance. Company witness Turner used the formula method to calculate working capital of $9,622,179 in which he included 1/12 of operating and maintenance expenses, materials and supplies, average prepayments less average tax accruals and end-of-period customer deposits. Mr. Turner stated in his prefiled testimony that in the regulatory concept "working capital" is the amount of funds supplied by investors which enables the Company to meet the day-to-day operating costs of furnishing service in advance of the recovery of such costs from the customers. He also stated that the Commission used the formula method in the Company's most recent rate proceeding, Docket No. P-55, Sub 742.

Public Staff witness Toms testified that he determined his working capital allowance of $5,228,421 by including the intrastate portion of cash consisting of the average daily bank balance of $1,531,600, average materials and supplies of $7,008,042, and investor funds advanced through operations of $664,796 less accounts payable of $2,741,364 applicable to average materials and supplies and accounts payable of $1,234,653 applicable to end-of-period telephone plant in service. Public Staff witness Toms stated that investor funds advanced through operations were derived from a lead-lag study which measures funds furnished by either customers or investors to meet the day-to-day cost of providing service to customers. The study is made by calculating an average revenue lag interval and an average expense interval. If the net interval shows that revenues are collected after expenses are paid, the investors will have to furnish funds to meet these expenses. On the other hand, if revenues are collected before expenses are paid, the Company has available customer funds which may be used to finance plant, materials and supplies, and cash on a continuing basis. Public Staff witness Toms testified that he prepared a lead-lag study from information provided by the Company which showed in this particular case that intrastate revenues were collected on an average of 2.11 days after expenses were paid. Mr. Toms testified that the intrastate revenue lag was 21.66 days and the expense lag was 19.55 days, or a net interval of 2.11 days and, therefore, the Company needs 2.11 days of funds from its investors to meet day-to-day expense requirements on a continuing basis. Mr. Toms further testified that 2.11 days of expenses amounted to $1,886,123; however, he reduced this amount by $565,542 for employee withholding taxes and $655,785 for excise taxes collected from its customers to arrive at the net investor funds advanced through operations. Mr. Toms stated that he reduced the working capital requirements by accounts payable relative to average materials and supplies and end-of-period telephone plant in service, which represent sources of capital not supplied by debt and equity investors and which were not given consideration in the lead-lag study.

On cross-examination Public Staff witness Toms testified that he used the average balance in materials and supplies rather than the end-of-period balance to minimize the effect of fluctuations in the account from month to month. He also testified on cross-examination that he had used the same balance of materials and supplies which Company witness Turner used. Public Staff witness Toms also admitted on cross-examination that he was aware that the Commission is permitted to consider any new evidence up through the date of the hearing. He also agreed that, since the average balance in the materials and supplies account had increased consistently through November 1977, either the end-of-period level of materials and supplies or the average balance for the 12 months ended November 1977, of which May 1977, the end of the test period, would be the mid-point, should be considered by the Commission.

Also, on cross-examination witness Toms accepted that Southern Bell's current ratio (ratio of current assets to current liabilities) approximated .82 and that the Company is able to operate at a low current ratio because it has accessibility to a pool of funds that is maintained by AT&T for the temporary financing needs of its operating subsidiaries. Public Staff witness Toms also testified that Southern Bell can obtain advances, as the need arises, from this pool of funds at the lowest prime rate being charged by three of New York City's largest banks. Mr. Toms accepted that Southern Bell's current ratio for 1973, 1974, 1975, and 1976 approximated .65, .72, .75, and .72, respectively.

The Company introduced Southern Bell Toms Cross-Examination Exhibit Number 4 which showed that Southern Bell would need a North Carolina intrastate cash allowance of $11,240,116 in order to have a current ratio of 1.0 and $14,274,948 to have a current ratio of 1.27, which is the Bell System current ratio. Mr. Toms agreed with the arithmetic on these cross-examination exhibits but did not agree that a 1.0 or 1.27 current ratio was appropriate.

Mr. Toms further testified on cross-examination, however, that no portion of the pool of funds maintained by AT&T should be allocated to the working capital allowance of Southern Bell. He stated that the basis for this conclusion was derived from the prefiled testimony of Company witness Graham A. Ragland, which Mr. Toms stated seemed to infer that AT&T was allocating its cost, including a return on its investment, to Southern Bell in accordance with the general services and license contract agreement between AT&T and Southern Bell. Public Staff witness Toms stated that, since Southern Bell was including this cost, including a return on investment, in its operating expense, AT&T was earning a return on the investment in the pool of funds required to provide service in accordance with the service contract and that Southern Bell was recovering this cost of service from its ratepayers.

In response to Public Staff witness Toms' statements regarding the pool of funds, Company witness Turner presented rebuttal testimony to correct the assumption made by Mr. Toms that the costs associated with the availability of the pool of funds are recovered through license contract payments. He testified that Southern Bell pays no fee to AT&T for the line of credit or the liquidity functions of the fund and that no amount of the fund is included in the investment of AT&T, nor does AT&T's billing relative to the license contract contain any return on investment associated with the pool of funds.

Company witness Turner testified that the pool of funds earns income and that the funds are invested in short-term securities such as government obligations and non-Bell System commercial paper when not loaned to the Bell System operating companies. He also maintained that as a part of the lead-lag study results it would be appropriate to include the North Carolina intrastate portion of the pool of funds in the working capital allowance and include any earnings generated by the pool of funds in net operating income. Mr. Turner testified that the total Bell System pool of funds for the 12 months ended May 31, 1977, was $1,441,401,454, of which $14,809,661 was applicable to North Carolina intrastate operations. Mr. Turner also testified that the pool of funds generated earnings of $53,020,314, of which $544,757 was applicable to North Carolina intrastate operations. Mr. Turner further testified that, if the lead-lag method is used for determining the working capital allowance, the $14,809,661 should be included in the rate base and the $544,757 should be included as income. As additional support for allocating the pool of funds, Mr. Turner testified that, if Southern Bell did not have the backing of the pool of funds on a North Carolina intrastate basis, the Company would need additional cash of $9,941,349 to cover outstanding drafts, to support the issuance of commercial paper, to establish lines of credit with banks, and to satisfy trust requirements for Federal payroll withholding taxes and excise taxes. As a practical alternative to the lead-lag method, Mr. Turner proposed the substitution of his cash working capital derived by use of the formula.

The Commission has carefully analyzed the testimony, exhibits, and cross-examination of both witnesses concerning the determination of the appropriate working capital allowance for use in this proceeding. In reaching its conclusion the Commission defines the working capital allowance as the amount of capital provided by the Company's debt and equity investors which enables the Company to maintain an inventory of materials and supplies and the cash necessary to pay the cost of providing telephone service prior to the time revenues for telephone service are received from its customers. A working capital allowance should be included as a component of the rate base only to the extent that working capital is provided by the Company's debt and equity investors for these purposes. The

Commission is of the opinion that use of the lead-lag study is the most accurate method of measuring the funds which the debt and equity investors have provided to meet the Company's working capital requirements. The lead-lag study method is a more accurate method of determining the working capital allowance because it is based on the customers' actual payment practices for telephone service and the Company's actual payment practices for costs incurred. A lead-lag study determines whether a company is receiving revenue from its customers on the average before it pays its creditors for the costs of providing telephone service, or vice versa. The lead-lag study is based on factual data, on the other hand, the formula method is entirely an estimate. It is not based on the Company's actual collection and payment practices. The formula method can result in a company's receiving either too much or too little working capital, instead of resulting in an amount based on its actual collection and payment experience.

The Commission concludes that the appropriate level of materials and supplies to include in the working capital allowance is $8,689,518, the balance at May 31, 1977, the end of the test period. Both witnesses Turner and Toms included an amount of $7,008,042; however, Southern Bell Toms Cross-Examination Exhibit Number 1 provides evidence concerning the continued increase in the level of materials and supplies from December 1976 to November 1977. Based on the continuing steady increase in the level of materials and supplies, the Commission concludes that the end-of-period balance of $8,689,518 is a more representative level to be associated with end-of-period plant than the average balance of $7,008,042.

The Company offered various exhibits to show the amount of cash allowance necessary to provide a current ratio of 1.0 and 1.27, the Bell System current ratio, and to show that a portion of the pool of funds maintained by AT&T should be allocated to Southern Bell's North Carolina intrastate operations.

First, considering the current ratio of 1.0 or 1.27, there is no relationship whatsoever between the accounting definition of working capital (current assets less current liabilities) and the working capital allowance for rate-making purposes. As previously mentioned, the working capital allowance for rate-making purposes is an investment in materials and supplies and cash necessary to pay the expenses of providing telephone service prior to the time revenues for telephone service are received from the customers. Also, a working capital allowance should be included in the rate base only to the extent that it is provided by the Company's debt and equity investors because to include more than that amount would build into the cost of service capital costs which do not in fact exist. Southern Bell offered no proof to show that it needs a current ratio of 1.0 or 1.27. To the contrary, evidence was presented that the North Carolina operations of Southern

Bell has operated with current ratios of .65, .72, .75, and .72 for the last four years. This shows that a portion of Southern Bell's North Carolina assets is financed by current liabilities at no cost and that on a continuing basis current liabilities is another form of capital, just as debt and common stock, except that it has no cost to the Company.

Upon consideration of the testimony regarding the pool of funds maintained by AT&T, the Commission concludes that no portion should be allocated to North Carolina intrastate operations. The Company has not carried the burden of proof. The Company offered evidence attempting to show that this pool of funds serves as a line of credit, backs up outstanding drafts and commercial paper, and satisfies legal liquidity requirements for Federal payroll and excise taxes held in trust for the government. The Commission is not aware of any legal requirement that payroll and excise taxes be held in trust. Company witness Turner also testified that he was not aware of any statute or regulation which requires that these funds be held in trust. The Commission is of the opinion that such taxes are available to the Company for unrestricted use until they are required to be submitted to the appropriate taxing authority.

The Commission also concludes that no portion of the pool of funds should be allocated to North Carolina intrastate operations to back up outstanding drafts. The Commission is including the average daily bank balances as a component of the working capital allowance. These average daily bank balances are generally higher than the cash balance which appears on the Company's books because of outstanding checks which have reduced the book balance but have not cleared the bank. Inclusion of the average daily bank balances has the effect of including working capital to cover outstanding drafts; therefore, it is not necessary to allocate a portion of the pool of funds to cover outstanding drafts.

Generally, compensating bank balances have been included in the rate base; however, the Commission is not including a portion of the pool of funds for this purpose or to support the issuance of commercial paper because the Company has not carried the burden of proof concerning this item. When cross-examined concerning the pool of funds, Company witness Turner acknowledged that Southern Bell had no outstanding debt from the pool of funds at the end of the test year or at the date of his testimony. There is no evidence to show that Southern Bell has actually utilized the pool of funds for short-term borrowings in the recent past or that Southern Bell expects to utilize the pool of funds in the near future. To the contrary, Mr. Turner testified that Southern Bell has been able to borrow from banks at a lower rate than that provided by AT&T. The Commission is aware of the excellent credit rating of Southern Bell and AT&T and that the pool of funds may serve to enhance that credit rating. However, the Commission concludes that there is no substantial evidence to show that absent the pool of funds Southern Bell would be required to maintain the large cash

balances advocated by witness Turner. There is no evidence to show that a cash allowance exceeding the average daily bank balances and the investor funds advanced through operations is required for Southern Bell. The North Carolina intrastate operations of Southern Bell was able to operate on a cash bank balance of $1,531,600 during the test period based on average short-term borrowings of $967,082 ($7,077,000 x 18.9393% x 72.1523%). There is no evidence of record showing that Southern Bell's North Carolina intrastate operations needs a cash allowance in excess of this amount in addition to cash necessary to pay operating expenses 2.11 days before revenues are collected from its customers. The Commission concludes that $1,531,600 is a reasonable cash allowance to include in the working capital allowance.

The Commission concludes that the appropriate amount of investor funds advanced through operations is $664,796, consisting of $1,886,123 to cover 2.11 days of operating expenses, less $565,542 for employee payroll withholding taxes and $655,785 for excise taxes collected from customers. The Commission has previously concluded that these items are available for the Company's unrestricted use until they have to be submitted to the appropriate taxing authority and, therefore, is of the opinion that additional comment concerning these items is not required.

The final component of the working capital allowance is accounts payable associated with materials and supplies and telephone plant in service. The Commission concludes that these are appropriate deductions in determining the working capital allowance using the lead-lag study approach. The amounts for accounts payable associated with materials and supplies and telephone plant in service represent rate base items which are financed by creditor supplied capital, which is cost-free to the Company. Also, these accounts payable were not recognized in developing the expense lag days of the lead-lag study. If these cost-free items of capital are not deducted from the rate base, it will have the effect of building into the cost of service a capital cost which does not in fact exist. The Commission considers these accounts payable items to be a source of capital instead of an offset against the cash allowance. If a company has a balance sheet which shows a larger accounts payable balance than a cash balance, that company is not considered to have a negative cash balance. The Commission views the two items as separate components of the working capital allowance.

Based on all of the testimony and evidence presented in this case, the Commission concludes that the working capital allowance derived by Public Staff witness Toms, adjusted for the effect of including end-of-period materials and supplies and excluding average materials and supplies, is the appropriate level of working capital allowance. Accordingly, the Commission concludes that the proper working capital allowance is $6,909,897, consisting of cash in the amount of $1,531,600, materials and supplies of

$8,689,518, and investor funds advanced through operation of $664,796, less accounts payable of $2,741,364 applicable to materials and supplies and accounts payable of $1,234,653 applicable to telephone plant in service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The laws of this State require that a utility be permitted to earn a fair return on the fair value of its properties dedicated to providing utility services to the public. Fair value is determined through a weighting process which utilizes both the original cost and the replacement cost of the utility plant. The burden of establishing the fair value of the utility plant in service is on the utility. G.S. 62-134(c).

In the instant docket, Southern Bell did not offer any replacement cost studies and, in fact, the Company's application and the testimony in support of that application refer repeatedly to original cost.

The Company did offer the testimony of witness Robert T. Burns reviewing the factors which he believes have historically prevented Southern Bell from achieving the rate of return approved by the Commission. While Company witness Walker contended that a 1/2% attrition allowance is applicable to the Company's rate base and, conceivably, a substitute for fair value, an examination of the testimony of witness Burns leads the Commission to a different conclusion. In fact, witness Burns indicated in both his direct and cross-examination that his suggested attrition allowance is applicable to the Company's overall rate of return and not its rate base.

The Commission concludes that the Company has failed to offer any evidence to show that the replacement cost of its properties differs from the original cost of these properties. Accordingly, the Commission concludes that the fair value of Southern Bell's utility plant in service is $767,241,254. This is determined from the original cost investment discussed in the Evidence and Conclusions for Finding of Fact No. 6 ($760,331,357) plus the reasonable allowance for working capital set forth in the Evidence and Conclusions for Finding of Fact No. 7 ($6,909,897).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Turner and Public Staff witnesses Bright and Gerringer testified concerning the representative end-of-period level of operating revenues. Witness Gerringer testified specifically on the appropriate apportionment of the Company's operations within North Carolina between interstate and intrastate jurisdictions, the status of the Company's intrastate toll settlements with all its connecting companies for the test period, and the determination of the Company's representative level of end-of-test-period intrastate toll revenues. The end-of-period

toll revenue amount determined by witness Gerringer was included by Public Staff witness Bright in her testimony and exhibit. Both witnesses Turner and Bright testified as to the appropriate level of operating revenues after accounting and pro forma adjustments. The following tabular summary shows the amounts presented by each witness:

Item	Company Witness Turner (a)	Public Staff Witness Bright (b)
Local service	$209,279,545	$213,166,832
Toll service	104,176,288	108,827,270
Miscellaneous	17,318,187	18,550,285
Uncollectibles	(768,082)	(789,041)
Total Operating Revenues	$330,005,938	$339,755,346

The difference between the two columns of $9,749,408 results from the different methods employed by the witnesses in calculating the end-of-period adjustments to revenues and expenses.

Witness Turner calculated his end-of-period adjustment to net operating income by multiplying his adjusted intrastate net operating income, excluding the total effect of the Chapel Hill purchase, by the percentage increase in end-of-period main and equivalent main telephones over average main and equivalent main telephones for the period. Mr. Turner testified that, although one could attempt to adjust revenues and expenses to an end-of-period level by direct calculation, he would question how good the results would be.

Two adjustments were made to the Company's actual operating revenues by witness Turner. The first adjustment increased local service revenues by $4,034,000, toll service revenues by $1,686,000, miscellaneous revenues by $236,000, and uncollectibles by $10,000. This adjustment recognized the effect which the March 31, 1977, purchase of the Chapel Hill telephone system would have had on operating revenues had this telephone system been a part of Southern Bell's operations for the entire 12-month period ended May 31, 1977.

His second adjustment decreased toll revenues by $2,385,156, which is comprised of both increased settlements with independent companies as a result of finalized cost studies and adjustments in preliminary settlement ratios.

Witness Bright, using a different approach to calculate the end-of-period level of net operating income, annualized the major items of revenue and expense on an individual item basis and applied the annualization factor to the net of the items which she was unable to annualize on an individual item basis.

The first adjustment of $7,443,287 which Ms. Bright made to local service revenues is an adjustment to annualize subscriber station revenues - monthly charges. Ms. Bright determined the end-of-period level of revenues by multiplying the actual May revenues by 12. The adjustment of $7,443,287 is the difference between the actual test-period subscriber station revenues of $184,649,689 and the end-of-period level of $192,092,976.

One further adjustment of $478,000 to increase local service revenues was made by Ms. Bright to reflect additional annual revenues which the Company will experience in the future due to the purchase of the Chapel Hill Telephone Company. This adjustment reflects only the additional revenues which were not considered in her previous adjustment to subscriber station revenues - monthly charges.

Witness Gerringer testified to the representative end-of-period level of intrastate toll revenues which Ms. Bright used in her calculation of end-of-period revenues. Mr. Gerringer determined the end-of-test-period level of intrastate toll revenues of $109,193,426 by calculating the growth of 4.48% in intrastate toll revenues for the 12 months of the test period over the 12 months preceding the test period. This percentage growth was then applied to the total booked intrastate toll revenues for the test period. In his final determination of the Company's representative level of end-of-period toll revenues of $108,827,270, Mr. Gerringer used the end-of-test-period toll revenues of $109,193,426 which he determined earlier for message toll, WATS, and interexchange private line service and adjusted for the full test-period effect of the acquisition of the Chapel Hill Telephone Company. This added $2,019,000 to the test-period intrastate toll revenues. He also adjusted for the impact related to the status of the toll settlements with all the connecting companies for the test period which reduces intrastate toll revenues by $2,385,156.

The next adjustment of $1,468,098 made by Ms. Bright to miscellaneous revenues represents the annualization of directory revenues by multiplying the directory revenues in the last month of the test year by 12. To assure that May was not an unusually high month, she compared the actual directory revenues for the five months following the test year and found that all months through October 1977 were higher than the May revenues.

To adjust uncollectible revenues to the end-of-period level of $789,041, witness Bright calculated the actual uncollectibles rate for the test period and multiplied this rate of .2317% by the total adjusted revenues presented by the Public Staff.

The remaining actual revenues of $23,115,315 which could not be annualized on an individual item basis were included by Ms. Bright in the annualization adjustment. Ms. Bright

multiplied the net of the remaining revenues and expenses by the Company's annualization factor of 1.69%.

The Commission concludes that both revenues and expenses should be annualized using the best methods available and that it is not necessary for every item to be annualized by the same method. Witness Bright annualized approximately 93% of all operating revenues by direct calculation and approximately 84.4% of all operating expenses, including taxes and interest, by direct calculation. The Commission is of the opinion that the methods used by witnesses Bright and Gerringer to annualize revenues result in a more representative end-of-period level of net operating income than would the use of a station factor only.

Accordingly, the Commission concludes that the appropriate level of operating revenues under present rates, before the annualization adjustment, is $339,755,346, consisting of local service revenues of $213,166,832, toll service revenues of $108,827,270, miscellaneous revenues of $18,550,285, and uncollectible revenues of $789,041.

The Commission further concludes that Bell's appropriate gross revenues net of uncollectibles under proposed rates would have been approximately $401,734,882. This amount includes $339,755,346 in net revenues under present rates, $40,979,536 in additional net revenues from the proposed increases in local service rates, and approximately $21,000,000 in additional net revenues from the proposed increases in intrastate toll rates as requested by Bell, according to the testimony of Company witnesses Dyer, Friedlander, and Schwahm and Public Staff witnesses Gerringer and Carpenter in Docket No. P-100, Sub 45, which is incorporated herein by reference.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Company witness Turner and Public Staff witness Bright presented testimony and exhibits showing the level of operating revenue deductions they believe should be used by the Commission for the purpose of fixing rates in this proceeding. The following tabular summary shows the amounts presented by each witness:

Item	Company Witness Turner (a)	Public Staff Witness Bright (b)
Operating expenses	$159,259,790	$163,564,087
Depreciation	52,763,107	55,787,767
Other operating taxes	34,837,047	36,596,105
Income taxes - State and Federal	29,350,132	28,261,091
Interest on customer deposits	94,213	94,213
Annualization adjustment	(881,109)	413,845
Total	$275,423,180	$284,717,108

The first difference in the operating revenue deductions involves operating expenses. Witness Turner believes that the appropriate level of operating expenses is $159,259,790, while witness Bright believes that the appropriate level is $163,564,087, a difference of $4,304,297.

The majority of the $4,304,297 difference in operating expenses results from wage and employee benefit adjustments. Witness Turner made adjustments totaling $9,116,469 to recognize increases in wage payments and employee benefits on August 1, 1976, and on August 1, 1977, for nonmanagement employees and first and second level management employees. Mr. Turner's adjustments did not include any increase in wages for higher level management or for the increase in the level of employees at the end of the test year. He did include, however, an adjustment of $316,156 for an increase in employees after January 1, 1978, due to the addition of one paid excused workday annually for all employees and an adjustment of $101,584 to reflect an increase in employees after September 18, 1977, due to the shortening of the workday for certain traffic employees from eight hours to 7 1/2 hours.

As explained in Evidence and Conclusions for Finding of Fact No. 9, Company witness Turner annualized all revenues and expenses, including wages, by applying the annualization factor to his adjusted net operating income, excluding the effects of the adjustment for Chapel Hill Telephone Company.

Witness Bright made an adjustment of $14,939,627 to annualize wages, pensions, and employee benefits. Ms. Bright's calculation used employees as of July 31, 1977, wage rates as of August 1977, and employee benefit changes through January 1, 1978. When asked why she did not make adjustments for the increase in employees due to the addition of the paid excused workday and the shortening of the workday for traffic employees, Ms. Bright explained that she had used the July number of employees, which was 85 more than at the end of the test period, to calculate her adjustment. Therefore, she did not think it would be appropriate to reflect any further increases in the number of employees in calculating the end-of-period level of wages and employee benefits.

Consistent with the Evidence and Conclusions for Finding of Fact No. 9, the Commission concludes that Ms. Bright's method of direct calculation of the adjustment of $14,939,627 to annualize the level of wages and employee benefits is proper and results in a more representative level of end-of-period adjusted net operating income.

The next difference between the two witnesses concerns the amount each included as the pro forma adjustment to bring the expenses associated with Chapel Hill Telephone Company to an end-of-period level. Mr. Turner made an adjustment to operating expenses of $1,855,000 to reflect the pro forma addition of Chapel Hill Telephone Company to the Southern

Bell operating system. His adjustment included wages and employee benefits for the additional employees needed to operate the Chapel Hill system. The pro forma adjustment was computed using seven months' actual data.

Witness Bright made adjustments totaling $354,000 to increase operating expenses for the pro forma effects of the addition of Chapel Hill Telephone Company. Ms. Bright testified that her adjustments did not include any wages or employee benefits since these amounts were included in the total adjustment of $14,939,627 which she made to annualize Southern Bell's wages and employee benefits. Her pro forma adjustment of $354,000 was computed using seven months' actual data for maintenance expenses and five months' actual data for all other operating expenses.

The Commission believes that, having used Ms. Bright's method of calculating the end-of-period level of wages and employee benefits, it is also proper to include the pro forma adjustment she calculated for the inclusion of the additional expenses associated with the Chapel Hill telephone system. The Commission, therefore, concludes that operating expenses should be increased by $354,000 to reflect the effect on intrastate operating expenses, excluding wages and employee benefits, had the Chapel Hill telephone system been a part of Southern Bell's North Carolina operations for the entire 12-month period ended May 31, 1977.

Both witnesses made an adjustment of $66,705 to decrease operating expenses for an out-of-period license contract fee. Based on the evidence presented, the Commission concludes that test-period operating expenses should be reduced by $66,705 to reflect exclusion of this fee.

The remaining net difference of $17,861 between the amounts presented by each witness as operating expenses results from three adjustments to operating expenses made by Ms. Bright. The first of these adjustments increased operating rent expense by $272,320. Ms. Bright testified that Southern Bell has negotiated new contracts with Duke Power Company and Carolina Power & Light Company for pole attachment rentals and that the effect of the new contracts would be to increase the estimated intrastate net cost of pole attachment rentals for the test year by $272,320. The Commission concludes from the evidence presented that annualized test-period operating expenses should be increased by $272,320 to reflect the increased cost of pole attachment rentals which are currently being incurred by Southern Bell.

The next adjustment proposed by Ms. Bright reflects the elimination of contributions in the amount of $187,164 from intrastate operating expenses. According to Ms. Bright, the inclusion of contributions in operating expenses makes the ratepayers involuntary donors to charitable organizations. She believes that, if the Company chooses to make charitable

contributions, the stockholders should bear the entire cost. The Commission concludes that contributions in the amount of $187,164 should be excluded from test-period intrastate operating expenses. Southern Bell's ratepayers may make charitable contributions on their own behalf but they should not be required to make charitable contributions through the payment of telephone rates.

The final adjustment presented by Ms. Bright decreased operating expenses by $103,017. This adjustment is required to normalize the test year level of expenses with regard to the costs associated with the management audit of the Company ordered by the Commission in April 1976. The Commission recognizes that under G.S. 62-37(b) the Company could incur this expense every five years and, therefore, concludes that only 1/5 of the total management audit expense should be included in test-period operating expenses in order to allow the Company to recover the cost of this expense from the ratepayers in the future. The Commission concludes that test-period intrastate operating expenses should be decreased by $103,017 to allow only 1/5 of the cost of the management audit to be included as a reasonable operating expense.

In summary, the Commission accepts all the adjustments proposed by Ms. Bright and concludes that the appropriate level of intrastate test-period operating expenses is $163,564,087.

The next difference between the operating revenue deductions presented by the witnesses involves depreciation expense. Witness Turner testified that the appropriate level of depreciation expense is $52,763,107, while witness Bright testified that the appropriate level is $55,787,767, a difference of $3,024,660.

Two adjustments were made to test-period depreciation expense by witness Bright. The first adjustment increased depreciation expense by $9,844,365. Ms. Bright testified that end-of-period depreciation expense should be calculated using end-of-period plant at May 31, 1977, and the new depreciation rates previously accepted by this Commission. The difference between the intrastate depreciation expense calculated in this manner and the actual test-period depreciation expense recorded on the books of the Company is $9,844,365.

The second adjustment which Ms. Bright made was to increase depreciation expense by $351,510 in order to include one year's amortization of the plant acquisition adjustment which was included in test-period original cost net investment.

As discussed previously, witness Turner annualized test-period net operating income, including all revenues and expenses, using an annualization factor of 1.69%. Since he used this annualization factor, it was not necessary to

annualize depreciation expense in the manner used by Ms. Bright. Instead, Mr. Turner calculated an adjustment increasing depreciation expense by $5,981,000 to reflect the represcription of the depreciation rates effective January 1, 1977. Three other adjustments to depreciation expense were made by witness Turner. First, he increased depreciation expense by $351,510 to reflect one full year of amortization of the telephone plant acquisition adjustment. The second adjustment increased depreciation expense by $721,000 to reflect a full year's depreciation of the Chapel Hill plant in service. The last adjustment made by Mr. Turner increased depreciation expense by $117,705, which represents increased depreciation on pro forma capitalized wages and employee benefits.

Based on the evidence presented, the Commission is of the opinion that the appropriate method for determining end-of-period depreciation expense is to apply the new depreciation rates to the plant in service at the end of the test period. The Commission is also of the opinion that a full year's amortization of the plant acquisition adjustment should be included in end-of-period depreciation expense. Depreciation expense should not be increased for pro forma capitalized wages and employee benefits: to do so would include depreciation on plant which is not in service at the end of the test year. Therefore, the Commission concludes that the proper level of depreciation expense for use herein is $55,787,767 as presented by witness Bright.

The next area of disagreement between the witnesses concerns the appropriate end-of-period level of other operating taxes. The differences are summarized as follows:

Item	Company Witness Turner	Public Staff Witness Bright
Property taxes	$10,099,778	$10,806,769
Gross Receipts taxes	19,536,661	20,281,238
Payroll taxes	5,195,283	5,502,773
Other taxes	5,325	5,325
Total	$34,837,047	$36,596,105

Witness Bright determined the end-of-period level of property tax expense by calculating the average property tax rate for the calendar year 1977 and applying that rate to plant in service at May 31, 1977, excluding the Chapel Hill plant in service. The actual property taxes for the test year were subtracted from her end-of-period level and an adjustment of $646,991 was made to increase property taxes on property other than the Chapel Hill purchase to an end-of-period level. Ms. Bright included a separate adjustment of $272,000 for the property tax expense associated with the Chapel Hill plant.

Mr. Turner made only one adjustment to property tax expense, since he used the annualization factor to make his

end-of-period calculation. His adjustment increased property taxes on the Chapel Hill plant by $212,000 to an end-of-period level of $272,000.

The Commission concludes, based on the evidence presented, that the proper level of end-of-period property tax expense is $10,806,769 as calculated by Ms. Bright. The Commission further concludes that direct computation of property taxes based on actual end-of-period plant in service results in a more accurate property tax expense than one obtained by the use of the main station annualization factor.

The difference of $744,577 between the gross receipts taxes included by the two witnesses results from a difference in the level of gross revenues which each included. Ms. Bright calculated end-of-period gross receipts taxes of $20,281,238 by multiplying the end-of-period gross revenues subject to the tax by the tax rate of 6%. Mr. Turner adjusted the actual gross receipts taxes for the adjustments which he made to gross revenues for the Chapel Hill adjustment and the additional independent company settlements. The Commission is of the opinion that gross receipts taxes should be calculated using the end-of-period level of gross revenues subject to the gross receipts tax. In Evidence and Conclusions for Finding of Fact No. 9, the Commission has found the end-of-period gross revenues as calculated by Ms. Bright to be proper for use in this proceeding. The Commission, therefore, concludes that the proper end-of-period level of gross receipts tax is $20,281,238 as calculated by witness Bright.

The last difference between other operating taxes presented by the witnesses is $307,490 in the level of payroll taxes. Witness Bright calculated her adjustment of $761,526 to bring FICA taxes to an end-of-period level based on the end-of-period level of wages which she included in operating expenses. She also made adjustments to increase State and Federal unemployment taxes by $101,787 and $9,000. The $101,787 adjustment reflected increases in the State and Federal unemployment tax rates, and the $9,000 adjustment reflected the increase in the level of the tax due to the additional employees associated with the Chapel Hill telephone system.

Witness Turner included adjustments to FICA taxes and unemployment taxes totaling $564,823. These adjustments reflected increases resulting from his use of increased wage levels and increases in tax rates during 1977.

The Commission has found previously that the proper level of operating expenses includes the end-of-period wage levels calculated by witness Bright. The Commission, therefore, concludes that end-of-period FICA taxes should be calculated on this end-of-period level of wages and that the end-of-period level of payroll taxes is $5,502,773 as presented by Ms. Bright.

Both witnesses included $5,325 as the reasonable amount for other taxes, which amount the Commission concludes is reasonable.

In summary, the Commission finds and concludes that the end-of-period level of other operating taxes is $36,596,105, consisting of $10,806,769 in property taxes, $20,281,238 in gross receipts taxes, $5,502,773 in payroll taxes, and $5,325 in other taxes.

The next difference of $1,089,041 between operating revenue deductions presented by witnesses Turner and Bright concerns State and Federal income tax expense. Both witnesses made adjustments to State and Federal income tax expense to reflect the income tax effects of the adjustments each made to operating revenues and operating revenue deductions. The operating revenues and operating revenue deductions have been discussed previously and need not be repeated. The Commission has found that the adjustments to operating revenues and operating revenue deductions presented by witness Bright should be used in this proceeding and, therefore, concludes that Ms. Bright's adjustment of $7,836,850, decreasing State and Federal income taxes to reflect the income tax effects of these adjustments, is also proper for use in this proceeding.

The two witnesses also made adjustments to State and Federal income taxes to reflect the income tax effects of pro forma capitalized pensions and payroll taxes. The differences relate to the levels of pensions and payroll taxes calculated by the witnesses. Witness Bright testified that for income tax purposes the Company deducts all pension costs and payroll taxes including those capitalized and, therefore, the reduction in income taxes should not be limited to the effect of those items charged to expense but should include the effect of the total increase in pension costs and payroll taxes. She proposed to decrease State and Federal income tax expense by $289,797 to recognize the income tax effects of the pro forma increase in pensions and payroll taxes capitalized which she calculated in conjunction with her adjustments to increase pensions and payroll taxes expensed to an end-of-period level.

The two witnesses agreed that an adjustment should be made to decrease State and Federal income taxes for the income tax effects of pensions and payroll taxes capitalized. It is clear that there is an immediate effect which should be recognized on the level of income tax expense which the Company experiences, caused by the increase in the level of payroll taxes and pensions used as a deduction in calculating income taxes. Since the Commission has previously found the level of payroll taxes and pensions proposed by Ms. Bright to be proper, the Commission concludes that Ms. Bright's adjustment decreasing income tax expense by $289,797 is also appropriate.

The last difference between the levels of income tax expense proposed by the witnesses concerns the interest expense each used to calculate income taxes. Witness Turner used the actual interest expense allocated to North Carolina intrastate operations for the test year of $18,977,240. Witness Bright used an interest expense of $21,421,222, which she calculated as the interest expense on the end-of-period debt capital supporting the intrastate original cost net investment developed in Bright Exhibit 1, Schedule 1.

The Commission is of the opinion that it would not be proper to include the end-of-period interest expense in the cost of service and calculate Federal and State income tax expense based on the inclusion of a lesser interest cost. The Commission therefore concludes that the method used by Ms. Bright for determining the interest expense to be used in the calculation of State and Federal income tax expense is proper. However, the Commission has found in Finding of Fact No. 8 that the intrastate original cost net investment plus working capital of the Company is $767,241,254 instead of the $688,188,238 recommended by Ms. Bright. Therefore, the Commission concludes that, using the capital structure and the original cost net investment plus working capital which the Commission has found fair, the interest expense to be used in calculating income tax expense in this proceeding is $21,593,069. The Commission concludes that the adjustment to State and Federal income taxes necessary to reflect this level of interest expense is a decrease of $1,337,212 ($21,593,069 - $18,977,240 x 51.12%).

In summary, the Commission concludes that the end-of-period level of intrastate State and Federal income tax expense is $28,173,243, as shown in the following table:

Item	Amount
Actual intrastate State and Federal income tax expense	$37,637,102
Adjustment to reflect the income tax effects of Commission adjustments to revenues, expenses, and taxes other than income	(7,836,850)
Adjustment to reflect the income tax effects of pro forma capitalized pensions and payroll taxes	(289,797)
Adjustment to reflect the income tax effects of interest expense allocation adjustment	(1,337,212)
Total	$28,173,243

Since the witnesses agree on the amount of interest on customer deposits, the Commission concludes that interest on customer deposits of $94,213 should be included in operating revenue deductions.

The final difference between the two witnesses is in the amount of the annualization adjustment. Mr. Turner multiplied the main station annualization factor of 1.69% by his adjusted net operating income (excluding the total effect of the Chapel Hill purchase) of $52,136,649 to determine his annualization adjustment. This increased net income by $881,109. Witness Bright computed her annualization adjustment, decreasing net income by $413,845, by multiplying the main station annualization factor of 1.69% by the net of operating revenues and operating revenue deductions which she had not directly calculated to an end-of-period level. The Commission has determined previously that Ms. Bright's method of directly calculating end-of-period amounts of revenues and revenue deductions, whenever possible, is proper. Accordingly, the Commission is of the opinion that the annualization adjustment of Ms. Bright which decreases income by $413,845 is proper.

The Commission concludes that the level of total intrastate operating revenue deductions, including the annualization adjustment, is $284,629,260, consisting of operating expenses of $163,564,087, depreciation of $55,787,767, other operating taxes of $36,596,105, State and Federal income taxes of $28,173,243, interest on customer deposits of $94,213, and the annualization adjustment of $413,845.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 THROUGH 14

The fair rate of return which the Company should be allowed the opportunity of earning on the fair value of its investment in providing service to its North Carolina ratepayers is determined by three factors:

1. The relative percentages of investment capital which have been supplied by the various classes of investors;

2. The reasonable cost rates to be applied to these classes of capital; and

3. The addition to original cost net investment represented by the fair value increment.

Whatever return is allowed must balance the interests of the ratepayers and investors and meet the test set forth in G.S. 62-133(b)(4):

> "[to] enable the public utility by sound management to produce a fair profit for its stockholders, considering changing economic conditions and other factors, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and to its existing investors."

The return allowed must not burden ratepayers anymore than is necessary for the utility to continue to provide adequate service. The North Carolina Supreme Court has stated that the history of G.S. 62-133(b)

> "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 of the United States...." State ex rel. Utilities Commission v. Duke Power Co., 285 N.C. 377, 206 S.E. 2d 269 (1974).

The nature of the evidence in a case such as this makes it extremely difficult to balance all the opposing interests, since much, if not all, of the evidence is based on individual witnesses' perceptions and interpretations of trends and data from the capital markets. It is virtually impossible to guarantee that the interests of the ratepayers and the Company will be in perfect balance. Careful study and analysis of the evidence, however, must be undertaken because only through careful analysis can some assurance be given that the allowed return is within the zone of reasonableness wherein neither the ratepayer nor the utility is unjustly treated.

In this case several witnesses made recommendations concerning the cost of capital and related subjects. Witness A. Max Walker of Southern Bell testified for the Company and witness Charles P. Jones testified for the Attorney General on behalf of the using and consuming public. Additionally, witness Robert L. Johnson testified for the Company on the subject of the cost of equity capital and witness Robert T. Burns testified about what he believes to be the causes of erosion in the earnings of the Company and recommended an adjustment in the allowed rate of return to compensate for future erosion.

The testimony of witnesses Johnson, Jones, and Walker differs principally in the recommended cost rate for the equity component of the Company's capital. All three witnesses estimated the cost of equity to Southern Bell's parent corporation, AT&T, and, by extension, treated the result as the cost of equity to Southern Bell. Both witnesses Walker and Jones used the Bell System's consolidated capital structure as the basis for recommending an overall cost of capital to Southern Bell. They determined the embedded cost rates for the debt and preferred equity capital to be 6.78% and 7.58%, respectively. (Dr. Jones used 7.57% as the cost of preferred equity, but the Commission will accept the higher figure.) The Commission concludes that the above embedded cost rates are reasonable and fairly represent the costs of those components of capital to the Company. The resulting capital structure is composed of 41.51% debt, 1.90% preferred equity, 47.00% common equity, and 9.59% cost-free capital.

The evidence presented regarding the cost of equity is conflicting. Witness Walker recommended 14% as the minimum cost of equity, witness Johnson, 14% to 14 1/4%, and witness Jones, 12.5%.

In determining a cost of equity between 14% and 16%, Company witness Walker utilized the opportunity cost or comparable earnings method and studied trends in stock market prices and price/earnings and market to book ratios. In addition, he performed a discounted cash flow and risk premium analysis. He also presented the interest coverage necessary to maintain the Company's present bond rating. In general, Mr. Walker asserted that AT&T equity should be allowed to earn at least at the average of a broad group of high quality industrials. He stated:

> "If the Bell System is to have broad recourse to the capital markets, which is essential for the continued rendition of quality telephone service, it must earn at levels comparable to the broad group of unregulated industrials."

Company witness Johnson determined the cost of equity capital to AT&T by means of the DCF and a risk premium study. The DCF formula can be formulaically stated as follows:

$$K = \frac{D(1)}{MP(0)} + G,$$

where K equals the market cost of common, D(1) equals the dividend expected one year hence, MP(0) equals the current market price, and G equals the annual rate of growth in dividends per share expected by the market. Dr. Johnson looked at past growth rates (earnings per share and dividends per share) and made a judgment as to the future payout ratio. Dr Jackson asserted that the market expects a higher earned rate of return on equity in the future than in the past. Considering a conversion from market to book returns and an increment for market pressure, breaks, underwriting fees, and the like, Dr. Johnson's DCF determined book cost is within the range of 14.2% to 14.6%.

Witness Jones based his recommendation of a 12.5% cost rate for equity on his application of the discounted cash flow (DCF) technique to AT&T alone and to AT&T together with a group of nonutility firms, which he considered to be roughly risk equivalent to AT&T. His discounted cash flow analysis is based on the average dividend yield for 1977 and historic growth in earnings, dividends, and book value per share for the companies in his group. In his analysis of AT&T alone, witness Jones found that a reasonable estimate of investor requirements for AT&T is 12.05%. His study of the other companies along with AT&T resulted in a slightly higher estimate of the cost of equity. He then averaged this result with the result for AT&T alone to arrive at

12.5% (after an adjustment for the costs of issuing new stock).

Company witness Burns recommended that an additional 1/2 of 1% be added to the fair rate of return to help offset the effects of inflation, which he believes produces an erosion in the earnings of the Company. The Commission cannot accept that recommendation. It seems unreasonable to burden the ratepayers in an attempt to insulate the Company from the ravages of inflation, a problem equally burdensome to the ratepayer.

Witness Burns' analysis and his recommendation are based on a study of the effect of inflation on the return which the Company would have earned had it not received rate relief during the 1970 to 1976 period. This ignores the principal mechanism, provided by statute, to protect the Company against possible erosion of earnings and therefore has little merit.

If the Company does experience erosion of earnings in the future, it can use both internal and external mechanisms to help alleviate the problem. In our judgment, these solutions are preferable to requiring the ratepayers to pay a rate of return in excess of that which is just and reasonable under existing conditions.

The evidence in this case is clear on at least one point: an investment in AT&T, whether equity or debt, is not very risky. The reputable investment advisory services mentioned at the hearing (e.g., Standard and Poor's, Moody's, and Value Line) consider AT&T to be a stable and secure company. In general, AT&T has achieved the highest bond ratings, the highest stock ratings (when rated for safety), and impressive investor acceptance. This level of safety, stability, and investor acceptance must be considered in determining the investors' return requirements used to determine the cost of equity capital to AT&T and ultimately the fair rate of return.

Having examined the evidence presented in this case, the Commission concludes that the reasonable cost of equity to the Company is no more than 12 5/8%.

In fixing the cost rate for equity at 12 5/8%, the Commission has studied the record carefully in light of its obligation to both the ratepayer and the investor. While a return of 12 5/8% is less than the Company requested, the Commission takes note of the fact that in November 1977 AT&T marketed successfully some 12 million shares of its common stock at a price which allowed it to receive book value per share, thus avoiding any dilution of the shareholders' investment, and did this without ever having achieved anything close to the level of return requested in this docket. Moreover, current investors are annually reinvesting some $600,000,000 of their dividends to purchase additional common shares. The Commission, therefore,

concludes that, by setting rates which will give the Company an opportunity through the exercise of sound and prudent management to earn 8.90% on its fair value rate base, it has fulfilled its obligations to both the ratepayer and the investor. This return on the fair value rate base will yield a return of approximately 12.64% on fair value common equity.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The Commission previously has discussed its conclusions regarding the fair rate of return which Southern Bell should be given the opportunity to earn in Evidence and Conclusions for Finding of Fact No. 11. Additionally, the Commission determined the appropriate level of toll revenues in Docket No. P-100, Sub 45. The findings and conclusions in that docket are incorporated herein by reference.

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 and conclusions heretofore and herein made by the Commission.

SCHEDULE I
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 768
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RETURN
TWELVE MONTHS ENDED MAY 31, 1977

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Local service	$213,166,832	$ 6,710,118	$219,876,950
Toll service	108,827,270	21,983,032	130,810,302
Miscellaneous	18,550,285	-	18,550,285
Uncollectibles	(789,041)	(55,091)	(844,132)
Total operating revenues	339,755,346	28,638,059	368,393,405
Operating Revenue Deductions			
Maintenance expenses	66,872,932	-	66,872,932
Depreciation	55,787,767	-	55,787,767
Traffic expenses	17,918,420	-	17,918,420
Commercial expenses	23,815,583	-	23,815,583
General	10,514,036	-	10,514,036
Relief and pensions	18,624,297	-	18,624,297
General services and licenses	5,824,340	-	5,824,340
Other general and miscellaneous expenses	19,994,479	-	19,994,479
Interest on customer deposits	94,213	-	94,213
Other operating taxes	36,596,105	1,718,284	38,314,389
Total operating revenues deductions before income taxes	256,042,172	1,718,284	257,760,456
Operating income before income taxes	83,713,174	26,919,775	110,632,949
Income taxes - state and federal	28,173,243	13,761,389	41,934,632
Total operating revenue deductions	284,215,415	15,479,673	299,695,088
Net operating income	55,539,931	13,158,386	68,698,317
Annualization adjustment	(413,845)	-	(413,845)
Net operating income for return	$ 55,126,086	$13,158,386	$ 68,284,472

	Present Rates	After Approved Increase
Investment in Telephone Plant		
Telephone plant in service	$949,819,079	$949,819,079
Telephone plant acquisition adjustment	5,293,195	5,293,195
Total plant in service	955,112,274	955,112,274
Less: Accumulated provision for depreciation	192,561,786	192,561,786
Amortization of plant acquisition adjustment	351,510	351,510
Customer deposits	1,867,621	1,867,621
Net investment in telephone plant in service	760,331,357	760,331,357
Allowance for Working Capital		
Cash	1,531,600	1,531,600
Materials and supplies	8,689,518	8,689,518
Investor funds advanced through operations	664,796	664,796
Accounts payable - plant in service	(1,234,653)	(1,234,653)
Accounts payable - materials and supplies	(2,741,364)	(2,741,364)
Total allowance for working capital	6,909,897	6,909,897
Net investment in telephone plant in service plus allowance for working capital	$767,241,254	$767,241,254
Fair value rate base	$767,241,254	$767,241,254
Rate of return on fair value rate base	7.18%	8.90%

SCHEDULE II
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 768
NORTH CAROLINA INTRASTATE OPERATIONS
TWELVE MONTHS ENDED MAY 31, 1977

Capitalization	Fair Value Rate Base	Ratio %	Embedded Cost or Return on Common Equity	Net Operating Income
	Present Rates - Fair Value Rate Base			
Total debt	$318,481,845	41.51	6.78	$21,593,069
Preferred stock	14,577,584	1.90	7.58	1,104,981
Common equity	360,603,389	47.00	8.99	32,428,036
Cost-free capital	73,578,436	9.59	-0-	-0-
Total	$767,241,254	100.00		$55,126,086
	Approved Rates - Fair Value Rate Base			
Total debt	$318,481,845	41.51	6.78	$21,593,069
Preferred stock	14,577,584	1.90	7.58	1,104,981
Common equity	360,603,389	47.00	12.64	45,586,422
Cost-free capital	73,578,436	9.59	-0-	-0-
Total	$767,241,254	100.00		$68,284,472

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Public Staff witness Bright testified that she reviewed the rate used by Southern Bell to capitalize interest during construction for the test year ended May 31, 1977. The Company states its IDC rate at 9%. Ms. Bright testified that she calculated the effective rate of 8.11% by dividing the capitalized cost of money reported as income by the average balance in telephone plant under construction. Ms. Bright concluded that the effective IDC rate of 8.11% was slightly higher than the net of tax IDC rate which she calculated to be approximately 7.55% for the test year. She recommended that the Company calculate the IDC rate prospectively using the same components of capital employed by this Commission in the fixing of rates; the actual embedded cost of debt and preferred stock at the time the calculation is made; and the return on common equity allowed by the Commission in the Company's most recent rate case.

The Commission has carefully considered the need for establishing the methodology to be followed in the capitalization of IDC. The Commission believes that the capitalization of the proper level of IDC is essential to the fixing of just and reasonable rates. For example, if

the rate used by the Company to capitalize interest is too high, the rate base of the Company might ultimately be inflated and the ratepayer might be required to pay rates in excess of those which would otherwise be reasonable. Conversely, if the IDC rate is too low, the Company might not be adequately compensated for its capital costs.

The Commission believes that:

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

(2) The basic objective of IDC 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 IDC should conform to rate-making practices so that a 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) When the IDC 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, it will be proper to compound the amount of capitalized funds on an annual basis.

The Commission, therefore, concludes that the following requirements should be met by the Company prospectively in developing IDC to be capitalized so as to interface with the rate-making practices of the Commission.

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

(2) The cost rates should be calculated in the same manner as they are calculated in the fixing of rates.

(3) 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 for tax purposes.

(4) Interest During Construction is a proper cost of construction and should be compounded.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 AND 20

Company witnesses Dyer and Raffensperger presented testimony regarding Southern Bell's proposals for service charges. These proposals include an increase in the charges for a complete residence main station installation from $25.50 to $72.50. Similar figures for a business installation are $33.40 and $86.40.

Several public witnesses, including a group of witnesses from Chapel Hill, appeared in opposition to the proposed increases in service charges. The witnesses from Chapel Hill, Craig Brown, Dr. Elizabeth Fischer, W. Bain Jones, Jr., and John L. Temple, were concerned principally with the effect of the increases on the transient population in the Chapel Hill community, particularly students at the University of North Carolina at Chapel Hill.

Public Staff witness Carpenter testified regarding his evaluation of the Company's service charge proposals and recommended a service charge format in lieu of the tariff proposed by the Company. He contended that his tariff is more definitive and allows a more equitable and consistent application of charges for the conversion of connector blocks to modular jacks. Based on the evidence submitted by the Company, Mr. Carpenter stated that he could not reach any conclusions regarding whether the proposed service charges were cost justified. Since the Public Staff had found that little, if any, additional revenue is required from local service, he recommended that his service charge format be implemented without an increase in the level of service charge revenues.

Based upon the evidence presented, the Commission concludes that a more complete and definitive service charge tariff is needed and that the format included in Appendix B should be adopted by the Company. The service charge tariffs should also include provisions reflecting cost savings associated with mass sign up and other processing procedures for the connection of student telephones in dormitories. Bell should undertake to develop procedures whereby, through joint effort, university and company personnel may further reduce installation costs in such communities. The Commission further concludes that the Company has failed to carry the burden of proof in support of the increases proposed in service charges and approved increases in service charges, which are just and reasonable, should be designed according to the guidelines set forth in Appendix A to this Order.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 18 AND 20

Witness William R. McLester of American District Telegraph Company and witness Ken Edwards of Sonitrol of East Carolina, Inc., testified regarding their firms' alarm services and the effect of Southern Bell's intraexchange mileage rate proposals on their businesses and their clients.

Witness R. Larry McCullough of Cone Mills Corporation testified on the effects of the proposed increases on his firm. He was particularly concerned with the basic service charges, monthly rates, and nonrecurring charges applicable to off-premises extension lines from a new Dimension PBX which his firm had requested prior to the filing of Southern Bell's application.

Company witnesses Robert A. Friedlander and Frank J. Schwahn presented Southern Bell's intraexchange mileage rate proposals and the cost support for the proposals.

Witness Carpenter presented testimony regarding the Public Staff's evaluation of the Company's proposals. He generally agreed with the proposed change in structure but felt the increases proposed by the Company were excessive and would cause an unreasonable burden on individual customers. His exhibits revealed that increases in mileage charges on some classes of service would exceed 300% on recurring charges and 1000% on nonrecurring charges. He recommended that limitations of 15% be placed on the increases in monthly mileage charges and that limitations of 100% be placed on nonrecurring charges.

Based on the evidence presented, the Commission concludes that the format proposed by the Company will provide a more functional basis for the application of the mileage charge. The Commission also concludes, however, that the increases proposed by the Company are excessive and unreasonable and that percentage increases in these services should be permitted only to the extent recommended by witness Carpenter and subject to the overall increase allowed for Private Line Service and Channels as set forth in Appendix A to this Order.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19 AND 20

Company witnesses Dyer, Friedlander, Raffensperger, and Schwahn testified regarding the Company's proposals for changes in the rates and charges applicable to the telephone answering service firms and their clients. These proposals included an increase in the rate for switchboards, a substantial increase to the current cost level in rates for the concentrator and identifier units, and increases in service charges applicable to establishment of secretarial lines. The proposals for mileage services would also affect the industry's business, particularly when more than one serving central office is involved.

Witness Marshall Howard, Vice President of Contact, Inc., witness James W. Beam of Answering Charlotte, Inc., and witness P. H. Moody of Ans-A-Phone Communications testified regarding the services of their firms and other telephone answering services. Their testimony included an explanation of the nature of the answering service business and its clients, the use of facilities provided by Southern Bell, the expected effects of the proposed rates on their businesses and clients, and their evaluation of several of Southern Bell's proposals. They opposed the increase in rates for the switchboard and concentrator-identifiers used in their businesses and the establishment of installation charges for the concentrator-identifiers. An alternative method of computing nonrecurring charges applicable to a move of a telephone answering service firm was proposed by witness Moody.

Witness Carpenter also presented recommendations concerning the proposals affecting the telephone answering service industry. He recommended a limit of 20% on the increases in recurring charges on major items of equipment furnished to the telephone answering firms. His recommendations on mileage service proposals also are applicable to the mileage service furnished to the telephone answering service firms as are his recommendations on service charges.

While the Commission is of the opinion that a 20% limitation on the increases in major items furnished to the telephone answering service firms is reasonable, the Commission concludes that any increases in the recurring rates for such equipment should be subject to the overall revenue increase allowed for Telephone Answering Services as set forth in Appendix A attached to this Order. The Commission's conclusions applicable to mileage services and service charges are the same as those outlined in the Evidence and Conclusions for Findings of Fact Nos. 17 and 20 and Nos. 18 and 20.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

With the exception of private line channels, Southern Bell's proposal for distributing the Company's additional revenue requirements among its various services were discussed by Company witness Dyer. His testimony included the pricing policies used by the Company to distribute revenues and the utilization of relevant costs for supplemental services. Mr. Dyer contended that his pricing structure was designed to achieve a balance of customer acceptability, understanding, stability, and administrative ease.

Although witness Dyer proposed to retain the present 10-group statewide exchange rate plan, he proposed to systematically regroup exchanges which grow out of their present rate groups or qualify for different groups due to changes in local calling areas. According to witness Dyer, this would assure that customers with similar calling scope will pay the same rates. For example, under his proposal, Goldsboro would enter a new group with only a 2,000-station increase in calling scope while Statesville would have to increase by 10,000 before being regrouped. On cross-examination, witness Dyer acknowledged that the Commission has never approved automatic regrouping and that his proposal does not provide for public notice or hearing.

If this proceeding had been filed after the decision in FCC Docket No. 19528, witness Dyer stated that he would have restructured the touchtone offering to correspond with his proposals on business services. Even with the proposed increases in extension rates, he believed Southern Bell would remain competitive in the extension market.

Although witness Dyer believed a ratio of 2.5 to 1 for business one-party to residential one-party is appropriate, he would apportion the revenue requirements between the services on a 2 to 1 basis.

Other tariff revisions proposed by Mr. Dyer include changes in the charges for the basic service residential and business rates, service charges, special service arrangements, directory listings, Telephone Answering Service facilities, Foreign Exchange and Foreign Central Office Service, Key and Pushbutton Service, Private Branch Exchange (PBX) Service, Miscellaneous and Auxiliary Equipment, Connecting Arrangements, Data-Phone Service, Mobile Telephone Service, and obsolete services.

Public Staff witness Willis testified as to the rate structure proposed by Southern Bell with the exception of the items discussed by witness Carpenter. Although Southern Bell's proposals herein are very similar to those previously approved by the Commission in Docket No. P-55, Sub 742, witness Willis noted that the Company has proposed a ratio of 2 to 1 to distribute revenue requirements between residential and business local service instead of a ratio of 2.5 to 1. This would increase residential rates by a greater percentage than business rates. Witness Willis suggested that the percentage increase in residential rates should be no greater than the increase in business rates.

Witness Willis rejected the Company's proposals for automatic regrouping of exchange groups. In his opinion, the growth of exchanges beyond their predetermined limits is not unreasonably discriminatory. In fact, if all exchanges grow at a similar rate, the relative value of service would be maintained. According to Mr. Willis, automatic regrouping would place a disproportionate amount of the Company's revenue requirements, on exchanges exceeding group limits, which might be unreasonable. Additionally, witness Willis recommended that the present tariff, which requires the Company to file information whenever an exchange calling scope is within 5% of its group limitation, be disapproved.

Mr. Willis suggested that the proposed extension rate changes be denied until the effect of the FCC's registration program has been monitored. With regard to the registration program, he recommended that touchtone rates have an individual line rate for business and residential customers as well as a separate station rate.

Based on the testimony and exhibits of witnesses Dyer and Willis, the Commission reaches the following conclusions with regard to tariff provisions, rates and charges:

1. That a ratio of 2.5 to 1 should be used to distribute any revenue requirements placed on basic telephone services.

2. That systematic regrouping is not in the public interest and that the Company's tariff provision 3.2.2 Regrouping is unnecessary.

The Commission further concludes, based on the evidence presented in this docket, that the rates, charges, and regulations filed in accordance with the guidelines in Appendices A and B attached hereto will be just and reasonable and will produce additional annual revenue of $6,710,118 on Southern Bell's North Carolina local intrastate operations.

IT IS, THEREFORE, ORDERED:

1. That Southern Bell Telephone and Telegraph Company be, and hereby is, authorized to adjust its North Carolina intrastate telephone rates and charges as set forth below to produce, based upon stations and operations as of May 31, 1977, additional annual gross revenues not to exceed $28,693,150. That $6,710,118 of the additional annual gross revenues authorized herein shall be obtained from changes in rates, charges, and regulations applicable to local service in accordance with Appendices A and B attached hereto. The remainder, $21,983,032, of the additional annual gross revenues authorized shall be obtained from changes in rates, charges, and regulations applicable to intrastate toll service, wide area telephone service, and interexchange private line service as authorized in the final Order in Docket No. P-100, Sub 45. 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.

2. That the parties hereto are hereby called on to propose specific tariffs reflecting changes in rates, charges, and regulations to recover the additional revenues approved herein from the various classes of customers in accordance with the guidelines set forth in Appendices A and B within 10 days from the date of this Order. Exceptions and comments to said proposed tariffs shall be filed within five days thereafter. The proposed service charge tariffs shall include provisions reflecting cost savings associated with mass sign up and order processing procedures.

3. That the rates, charges, and associated regulations to produce the additional annual gross revenues authorized herein shall become effective upon the issuance of a further Order approving the tariffs filed pursuant to paragraph 2 above.

4. That paragraph 3.2.2. Regrouping of Southern Bell's General Subscriber Service Tariff be, and hereby is, rescinded.

5. That the Company undertake a comprehensive economic study of digital 5 class 5 central offices as compared with

an ESS class 5 central office. The Public Staff is requested to review and critique the Company's study.

6. That the Company shall in its calculation of IDC to be capitalized follow the methodology set forth by the Commission in its conclusions under Evidence and Conclusions for Finding of Fact No. 16.

ISSUED BY ORDER OF THE COMMISSION.

This 24th day of March, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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

APPENDIX A
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 768

The increase of $41,058,368 in local service revenues proposed by Bell would have been collected from the major classes of customers as shown in Column I. The Commission's guidelines for recovering the additional $6,710,118 in local service revenues approved herein are shown in Column II.

	I Proposed Increase	II Increase Allowed
Basic Local Service	$ 8,154,143	$1,450,000
Service Charges	15,021,976	2,351,697
Special Assembly Items	38,678	6,291
Directory Listings	491,256	79,899
Semipublic Telephone Service	22,617	3,678
Telephone Answering Service	147,796	24,038
Key and Pushbutton Telephone Device	730,286	118,776
Private Branch Exchange Services	252,314	41,037
Miscellaneous Service Arrangements	3,976,424	646,737
Auxiliary Equipment	1,740,247	283,039
Connection with Facilities and Equipment of Others	257,127	41,820
Data-Phone Data Service	173,383	28,200
Mobile Telephone Service	6,787	1,104
Private Line Service and Channels	6,823,189	1,109,743
Obsolete Service Offerings	3,215,537	522,984
WATS and MTS Directory Listings	6,608	1,075
TOTAL	$41,058,368	$6,710,118

NOTE: Rates for residential one-party service should increase by 10¢ and business one-party by 25¢, preserving the 2.5 to 1 ratio. If the total additional revenues to be derived from the increases in Basic Local Service rates exceed those shown in Column II, which are only guidelines, the increase in Service Charges revenues should be reduced so that the total additional revenues approved for all classes of service do not exceed $6,710,118.

DOCKET NO. P-9, SUB 138

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of United Telephone Company of the Carolinas, Inc., for Approval of Certain Adjustments in its Rates and Charges Applicable to Intrastate Telephone Service	) ORDER) SETTING RATES) AND CHARGES))

HEARD IN: The Council Chamber, City Hall, Southern Pines, North Carolina, on November 23, 1977; the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, November 30, 1977, through December 1, 1977; and in the Gibsonville Fire Station, Gibsonville, North Carolina, on December 20, 1977

BEFORE: Commissioner Leigh H. Hammond, Presiding; and Commissioners John W. Winters and Ben E. Roney

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and Edward S. Finley, Jr., Joyner & Howison, Wachovia Bank Building, Post Office Box 109, Raleigh, North Carolina 27602

William W. Aycock, Jr., Taylor, Brinson & Aycock, Post Office Box 308, Tarboro, North Carolina 27886

John B. Hoffman, General Counsel, United Telephone Company of the Carolinas, Inc., 112 Sixth Street, Bristol, Tennessee 37620

For the Using and Consuming Public:

Robert P. Page, Assistant Staff Attorney, and Theodore C. Brown, Jr., Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, Dobbs Building, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On August 8, 1977, United Telephone Company of the Carolinas, Inc. (United, the Applicant, or the Company), filed an application with the Commission for authority to increase its rates and charges for intrastate telephone service to become effective on service rendered on and after October 1, 1977. The Applicant filed testimony and exhibits along with, and in support of, its application.

By Order dated August 30, 1977, the Commission set the application for hearing and investigation, suspended the proposed rates, declared the matter to be a general rate case, and required public notice. On September 15, 1977, the Public Staff filed Notice of Intervention, and on September 19, 1977, the Commission issued an Order Recognizing the Intervention of the Public Staff.

The Commission's Order of August 30, 1977, set the case for hearing in the Council Chamber, City Hall, 145 Southeast Broad Street, Southern Pines, North Carolina, on November 23, 1977, at 9:30 A.M., and in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on November 30 through December 2, 1977, at 10:00 A.M. This Order also established the test period to be used for the proceeding as the 12-month period ended December 31, 1976.

By Motion of July 20, 1977, the Applicant moved that John R. Hoffman, General Counsel and Secretary, United Telephone System - Southeast Group, 112 Sixth Street, Bristol, Tennessee, be permitted to appear on behalf of the Company in the above docket. On August 30, 1977, the Commission issued an Order authorizing John R. Hoffman to appear in the above-captioned proceeding as an additional counsel for United Telephone Company of the Carolinas, Inc.

On November 23, 1977, in the Council Chamber, Southern Pines, North Carolina, a public hearing was held. Lillian Havener, a public witness, testified that she has been a customer of the Applicant for six years and has one phone and that she spoke in behalf of the senior citizens requesting that a large increase in rates not be allowed. Mrs. Havener stated that her present telephone bill is $7.55 and, under the proposed increase, it would be $12.20. She also testified that she has no complaints and that her service has been fine.

Also, at the Southern Pines hearing the Applicant presented Stan Fisher, Vice President and General Manager of the Supply Division of North Electric Company, Lenexa, Kansas. Mr. Fisher testified as to all phases of operation of the Supply Division including sales, purchasing, warehousing, distribution, order entry, pricing, and billing.

D. M. Gedeon testified for the Applicant that he is employed as Comptroller of North Electric Company. He gave testimony concerning the North Electric Company's

accounting, internal auditing function, cost and inventory accounting, budgets, and financial analysis.

Applicant next presented Robert E. Baker, Jr., Assistant Vice President - Rate Case Matters, of United System Service, Inc., of Johnson County, Kansas, who testified to all aspects of planning, development, and presentation of operating company rate cases including the establishment of revisions in rates and charges for various service offerings and their implementation by appropriate tariff provisions.

The Public Staff presented the testimony of J. Craig Stevens, Director of the Consumer Services Division. Mr. Stevens testified concerning the record number of 36 complaints his Division has received from customers of United during the current calendar year. He also testified about the service problems and the objections to a rate increase which were in the complaints.

James S. Compton also testified for the Public Staff. Mr. Compton is an Engineer with the Telephone Division, and his testimony dealt with quality of service and the service investigation which he conducted into the operations of the Applicant.

The hearing in Southern Pines, North Carolina, was adjourned on November 23, 1977, and was reopened in Raleigh, North Carolina, at the Commission Hearing Room, Dobbs Building, on November 30, 1977, at 10:00 A.M.

At the Raleigh hearing, the Public Staff sponsored three public witnesses: Tom Edge of Kernersville, North Carolina, who testified that he felt no increase in rates should be granted; Jones Ryan of Fuquay-Varina, North Carolina, who testified concerning service problems and installation costs; and Philip M. Price, Town Manager of the Town of Gibsonville, North Carolina, who requested the Commission to have a hearing in Gibsonville so citizens could testify there concerning the case.

The Applicant presented Charles G. Browning, Vice President - Operations of the Southeast Group, of Bristol, Tennessee, who testified about the overall operations and business of United; Luther G. Wolfe, Vice President - Finance and Controller of the Southeast Group, who testified with regard to the results of test year operations and accounting matters; Ross A. Spink, Jr., Manager of the Revenue Requirements Department for the Southeast Group, who testified concerning rates, tariffs, and cost of service; Earl D. Wooten, Separation and Settlements Supervisor, who testified as to toll revenue and intercompany settlements, expenses, and investments chargeable to intrastate and interstate tolls; and Joseph F. Brennan, President of Associated Utility Services, Inc., who testified with regard to the appropriate rate of return for United.

The Public Staff, in addition to the three public witnesses, presented Benjamin R. Turner, Jr., Telephone Engineer with the Telephone Division, who testified about the Company's central office engineering, traffic administration, outside plant engineering and construction, operating expenses, and gross and net plant investments; William J. Willis, Jr., Rate and Tariff Engineer with the Telephone Division, who testified as to the Company's proposed structure of local service rates and tariff proposals; Millard N. Carpenter, III, Rate Analyst with the Telephone Division, who presented his evaluation of the Company's proposals for changes in service charges and other nonrecurring charges, the use of a growth factor, and alternate service charges; Hugh L. Gerringer, Telephone Engineer with the Telephone Division, who gave the results of his investigation into the appropriateness of the apportionment of the Company's facilities, revenues, and expenses between its interstate and intrastate operations, the status of the Company's intrastate toll settlements with Southern Bell, and the EAS component rate plan proposed; Linda M. Chappell, Staff Accountant with the Accounting Division, who offered testimony and exhibits regarding test-period original cost net investment, revenues, expenses, and return on original cost net investment and on common equity under present rates and after the Company's proposed increase; and Edwin A. Rosenberg, Economist with the Operations Analysis Division, who testified concerning his independent study of a reasonable estimate of the cost of capital to the Applicant for use in determining revenue requirements.

During the course of the hearing, counsel for the Applicant and the Public Staff entered into the following stipulation which the Commission panel approved and agreed to include in its Order:

"The following has been stipulated by and between Applicant and Public Staff in this cause as correct and is requested by those parties to be incorporated by the Commission in its final order in this docket:

The Applicant and the Public Staff have presented conflicting evidence both as to the appropriate rate base and the fair rate of return applicable thereto.

Their differences as to appropriate rate base primarily arise from disagreement as to whether or not it is proper to deduct accumulated deferred income taxes and unamortized investment tax credit (pre-1971) from total plant in service plus working capital in determining original cost net investment rate base (there is no replacement cost or 'fair value' evidence). Public Staff takes the position that these items should be a rate base reduction and Applicant takes the position that they should not be, but should be treated as cost free capital in determining the cost of capital.

As to cost of capital and fair rate of return, the differences between the Public Staff and the Applicant are significant both in regulatory concept and in amount. The Public Staff advanced a double leverage concept, unnecessary to discuss here, the results of which are shown in Rosenberg Exhibit No. 1, page 5. The Applicant disagreed both with the double leverage concept and with the application thereof by the Public Staff. The results of Applicant's determination of cost of capital is shown in Brennan Exhibit No. 1, Schedule 25.

The Public Staff would apply its cost of capital as fair rate of return to a rate base in which cost free items had been deducted. The Applicant, having accounted for cost free items in its determination of cost of capital, would apply its cost of capital as fair rate of return to a rate base from which cost free items had not been deducted.

The Public Staff through its Accounting Witness, L. S. Chappell, used the assumed capital structure developed by Mr. Rosenberg with its higher debt ratio than Applicant's actual debt ratio to develop a greater below-the-line interest expense and correspondingly a lower income tax expense than did the Applicant.

The parties have agreed, and it is abundantly clear from the record, that the rate increase requested by Applicant and which would be produced by the proposed rate structure, is less than that which the evidence of the Company or the Public Staff shows to be just and reasonable. While the Applicant's evidence tends to show a greater revenue deficiency produced from the requested rates than does the Public Staff's evidence, such is academic here inasmuch as in either event there is a revenue deficiency. We conclude, therefore, that the level of rate increase requested by Applicant is no more than just and reasonable and will produce something less than a fair and reasonable rate of return. In view of the foregoing, it is entirely unnecessary to consider or to adjudicate the differences between Applicant and the Public Staff which we have hereinbefore referred to, and we specifically refrain from so doing.

We recognize there is pending before the Commission an intrastate toll rate case, Docket No. P-100, Sub 45. The Applicant and the Public Staff have agreed, and we so find, that in the event a toll rate increase is granted therein, the toll settlement ratio authorized therein would have to exceed 12.7% before the increased revenues sought by Applicant in this case combined with the additional revenues which it would obtain from the toll rate increase would exceed the lowest return being that of the Public Staff, advocated as just and reasonable for the Applicant. Consequently, Applicant would not be expected to 'flow through' to its customers any toll rate increase arising from Docket No. P-100, Sub 45 except to the extent the same exceeds the toll settlement ratio of 12.7%."

After the hearing in Raleigh had concluded, the Commission on December 8, 1977, reopened the proceeding for further testimony of public witnesses in the Town of Gibsonville, North Carolina. On December 20, 1977, in the Fire Station in Gibsonville, North Carolina, at 7:00 P.M., the following public witnesses were heard: Vernon B. Land, Ann McIntyre, Larry Drewery, Robert J. Spence, Melvin Randolph, Harvey Blalock, Bertram Brady, and Philip M. Price. All of the public witnesses testified about their individual concerns with rates and services.

Based on the foregoing, the verified application, the testimony and exhibits received in evidence at the hearings, the stipulation, and the entire record in this proceeding, the Commission now makes the following

FINDINGS OF FACT

1. That United Telephone Company of the Carolinas, Inc., is a duly franchised public utility providing telephone service to its subscribers in North Carolina, 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 Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the Applicant intends to submit in the near future for Commission approval a proposal to merge its North Carolina operations with those of Carolina Telephone and Telegraph Company, both being subsidiaries of United Telecommunications, Inc.

3. That United Telephone Company of the Carolinas, Inc., with headquarters in Bristol, Tennessee, serves approximately 55,861 total stations and provides telephone service in 14 exchanges in central North Carolina.

4. That the present proceeding is the first general rate application filed by Applicant since 1971. The Commission granted rate relief in said 1971 application by Order entered February 24, 1971.

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 December 31, 1976.

6. That the annual increase in local service revenues sought by the Company is $1,441,039 as applied to test year operations.

7. That the overall quality of service provided by Applicant to its customers is adequate; that the overall operations and engineering of the Company are reasonably efficient; however, central office switching equipment can be better utilized during the traffic busy season through an

improved balance of usage among line finder and connector switching groups.

8. That the original cost per books of United's intrastate telephone plant in service used and useful in the provision of telephone service is $38,529,253. The accumulated depreciation associated with this telephone plant in service is not less than $6,114,165 nor more than $6,192,717. United's original cost of intrastate net telephone plant in service will not be determined because the propriety of deducting cost-free capital (including unamortized investment tax credit pre-1971, of $130,560, deferred income taxes of $3,046,149, and deferred income taxes on intercompany profits of $789,450) from telephone plant in service has not been determined. The stipulation entered into by the parties at the hearing makes such determination unnecessary.

9. That the reasonable allowance for working capital is not less than $252,069 nor more than $535,006.

10. That the only evidence of fair value in this proceeding is the original cost of the Applicant's intrastate plant used and useful in providing telephone service in North Carolina.

11. That the approximate gross revenues net of uncollectibles for Applicant for the test period are not less than $8,891,313 nor more than $9,331,241 and under Applicant's proposed rates would have been not less than $10,325,723 nor more than $10,765,651.

12. That the representative level of intrastate toll revenues which is proper for use in this proceeding is not less than $3,216,398 before annualization to year-end nor more than $3,486,520 after annualization to year-end. In the event a toll rate increase is granted in Docket No. P-100, Sub 45, now pending, the resulting toll settlement ratio would have to exceed 12.7% before the increased revenues sought by the Applicant in this case, combined with the additional revenues derived from the toll increase, would exceed the lowest return, being that of the Public Staff, advocated as just and reasonable for the Applicant.

13. That the level of Applicant's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is not less than $6,988,124 nor more than $7,322,282, including the annualization adjustment.

14. That the capital structure which is proper for use in this proceeding is, as stipulated, not determined for purposes of this Order.

15. That the entire amount of additional gross revenues requested of $1,441,039, when added to the revenues actually

generated by test year operations, will produce rates of return on rate base and end-of-period common equity which are substantially below the lowest recommendation of the expert witnesses offered by the Company and the Public Staff. The rates of return resulting from approval of the requested increase, thus, do not exceed those which are just and reasonable.

16. That the Company is entitled to increase its basic rates and charges for local service by an amount of $1,441,039 in order to produce total annual revenues more nearly approximating United's cost of service than the present rates.

17. That the proper rate design for United should be structured in accordance with Appendices A and B attached hereto. The schedule of rates and charges set forth in these appendices, and the format thereof, is hereby found to be just and reasonable and such schedule will generate additional annual revenues of approximately $1,441,039.

18. That the annual review and reclassification of local exchange groups as proposed by United, based upon growth or decline in local base stations, is contrary to sound regulatory policy.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-6

The evidence for Findings of Fact Nos. 1-6 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 essentially procedural and jurisdictional and are not disputed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence relating to the quality of telephone service provided by United Telephone Company of the Carolinas, Inc., which appears in this record consists of the testimony of several public witnesses, Company witness Browning and Public Staff witness Compton.

Public witness Lillian Havener stated in the Southern Pines hearing that her service in Carthage has been fine. Tom Edge of Kernersville stated his service was not good. His problems are chiefly static, no ring - no answers, and cross talk. Public witness James Ryan of the Fuquay exchange complained of cut-offs, no ring - no answers, slow dial tones, cross talk, loud but "fuzzed out" calls, and "too weak to hear" calls that require redialing in order to talk. Public witness Philip Price, Town Manager of Gibsonville, stated that the service in Gibsonville was less than comparable service given in the larger cities and nearby communities. He said that the service in Gibsonville is a little better than the telephone system in Viet Nam. Public witness Vernon Land, also of the Fuquay exchange, complained of three years of troubles while on a 2-party

line because the billing equipment mixed up his calls. The Company changed his service so that the operator would ask for number identification on each toll call. He stated that, even after he got a private line, his phone would be dead in the evening and working the next day. He complained of loud noises and buzzing on his line that would completely interrupt any conversation and further complained that calls to Garner on a wet day are impossible. He concluded that his service in the last four years had been far from good. Public witness Ann McIntyre of Gibsonville complained that she has experienced a terrific roar on her phone during the last few days. Public witness Larry Drewery of Gibsonville complained that the business office personnel would not take his out-of-service trouble and advised him to call the operator in Greensboro.

Company witness Browning, Vice President, Operations, of United Telephone System - Southeast Group, presented testimony with respect to the quality of service provided by United. Mr. Browning stated that his Company's service compares very favorably with other telephone companies in North Carolina. He also stated his opinion that United's service is completely satisfactory and adequate in all respects.

Regarding the consolidation of the two United Telecommunications properties in North Carolina, Mr. Browning stated that certain operating efficiencies would result from the merger of United Telephone Company of the Carolinas, Inc., with the Carolina Telephone and Telegraph Company (Carolina).

Mr. Browning further stated that the Company anticipated continuing increased costs because its construction program for the three-year period of 1977-1979 will amount to approximately $19,918,000 for North Carolina.

Public Staff witness Compton presented the results of the Public Staff's investigation into the quality of service provided by United. The evidence offered by the Public Staff indicates that United's service is adequate. However, the Public Staff's evaluation does show that some improvement should be made in the following areas:

1. EAS Completion: Southern Pines district; Whispering Pines, Carthage and Robbins
2. EAS Noise: Southern Pines and Robbins
3. Operator Answer: Robbins

Public Staff witness Turner testified concerning the Public Staff's review of the Company's operations. This included a review of central office engineering, traffic engineering, outside plant engineering and construction, and an analysis of operating expenses and gross and net plant investment.

Mr. Turner stated that a review of traffic administration indicated deficiencies in the areas of line finder and connector switching capacity and trunk forecasting. His analysis indicated that certain line finder and connector groups in Angier, Fuquay-Varina, Goldston, Kernersville, Siler City, and Vass had traffic usage, based on traffic study data which was not accumulated during the busy season, which were over the engineered capacity of the switching groups. He further explained that a line finder or connector group which is over the engineered capacity would cause a subscriber to experience a higher frequency of blockages during the peak busy hour. Also, he pointed out that the data used was not accumulated during the busy season. Mr. Turner recommended that the Company conduct traffic studies for each central office each year during the busy season in order to insure adequate switching capacity. The deficiencies Mr. Turner described regarding trunk forecasting related to the use of trunk forecasts produced by Southern Bell Telephone and Telegraph Company (Southern Bell) for trunks connecting exchanges of Southern Bell and United. Mr. Turner recommended that the Company begin to forecast trunk requirements for all trunk groups including those connecting with Southern Bell and that the Southern Bell forecast be used only as a source of information and a means of double-checking United's forecasts for the same group. He further stated that where there were significant differences between the two forecasts, the divergence should be examined and resolved.

On cross-examination, Mr. Turner explained that he used average peak busy hour usage as the basis of his evaluation instead of office busy hour usage. Discussing the differences between peak busy hour and office busy hour, he explained that the problem was not one of total office switching capacity but of particular switching groups having blockages during certain hours of the day other than the office busy hour which is identified by calculating the total amount of traffic flowing through the central office for each hour of the study day and selecting the hour with the highest total usage as the office busy hour. Should the peak traffic for switching groups occur at hours other than the office busy hour and their traffic handling capacity be inadequate, he concluded that those groups would experience call blockage conditions. Mr. Turner also observed that the traffic data he studied was not busy season data and the blockage conditions would be more pronounced during the busy season.

Based on the evidence in the record in this case, the Commission concludes that the traffic problem identified by Mr. Turner is not one of central office capacity but one of having the proper amount of equipment in the switching groups at the proper time. It would seem that a balancing of usage among line finder and connector switching groups would produce a more even distribution of traffic usage. This Commission concludes that the traffic usage in each central office should be based on busy season traffic

studies. The Commission further concludes that trunk forecasting by United could be improved by implementing the recommendation of Mr. Turner regarding trunk forecasting of exchanges which connect with Southern Bell.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission will now analyze the testimony and exhibits presented by Company witness Wolfe and Public Staff witness Chappell concerning the net original cost of United's intrastate telephone plant in service. The following chart summarizes the amount which each witness contends is proper for this item:

Item	Company Witness Wolfe	Public Staff Witness Chappell
Original cost of telephone plant in service	$38,529,253	$38,529,253
Less: Accumulated depreciation	(6,114,165)	(6,192,717)
Unamortized investment tax credits Pre-1971	-	(130,560)
Accumulated deferred income taxes	-	(3,046,149)
Deferred income taxes on inter-company profits	-	(789,450)
Net investment in telephone plant in service	$32,415,088	$28,370,377

Both witnesses agreed that the adjusted intrastate level of telephone plant in service is $38,529,253. Intrastate telephone plant in service before Company or Public Staff adjustments was $38,267,890. Company witness Wolfe proposed that two accounting adjustments be made to telephone plant in service. The first adjustment in the amount of $377,411 is to transfer plant from Tennessee to North Carolina. Witness Wolfe made this adjustment to include in test-period plant in service that portion of headquarters general office plant located in Bristol, Tennessee, which benefits the North Carolina operations of United. The second adjustment witness Wolfe proposed making to plant in service is to transfer plant from North Carolina to South Carolina. This adjustment in the amount of ($116,048) relates to general office plant located at the division office in Southern Pines, North Carolina, and was made to eliminate that portion of the plant which benefits South Carolina. The net effect of the two adjustments proposed by Company witness Wolfe is to increase intrastate telephone plant in service by $261,363. Public Staff witness Chappell agreed that these adjustments were necessary and proper and that the appropriate end-of-period level of telephone plant in service is $38,529,253.

The Commission concludes that the adjustments to telephone plant in service proposed by Company witness Wolfe and agreed to by Public Staff witness Chappell are proper and necessary adjustments. The Commission recognizes that plant physically located in Tennessee which benefits the North Carolina operations of United Telephone Company of the Carolinas, Inc., should be included in test-period plant and likewise that portion of plant located in North Carolina which benefits the South Carolina operations should be excluded from test-period plant. The Commission therefore concludes that the adjustments increasing intrastate telephone plant in service by a total amount of $261,363 are proper and that the original cost of intrastate telephone plant in service is $38,529,253.

The witnesses disagreed in part on the proper amount of accumulated depreciation to be deducted from the cost of intrastate telephone plant in service. Intrastate accumulated depreciation before Company or Public Staff adjustments was $6,021,441. Company witness Wolfe proposed that three adjustments be made to accumulated depreciation. Two of these adjustments he classified as accounting adjustments and they relate to the transfer of the original cost of telephone plant from Tennessee to North Carolina and from North Carolina to South Carolina. Witness Wolfe proposed that accumulated depreciation be increased by $93,339 to include the accumulated depreciation applicable to plant located in Bristol, Tennessee, which benefits the North Carolina operations. He also proposed decreasing the depreciation reserve by $56,397 to exclude the accumulated depreciation relating to plant in Southern Pines, North Carolina, which benefits the South Carolina operations. He testified that it is appropriate to increase accumulated depreciation for that portion of the original cost of plant transferred from Tennessee to North Carolina which has previously been recovered through depreciation expense and to decrease accumulated depreciation for that portion of the original cost of plant transferred from North Carolina to South Carolina which has also been recovered through depreciation expense. Public Staff witness Chappell agreed that the adjustments made to accumulated depreciation for plant transfers were proper and she also increased accumulated depreciation by a total amount of $36,942 ($93,339 - $56,397).

The Commission concludes that it is appropriate to adjust the depreciation reserve to recognize the accumulated depreciation amounts relating to the transferred plant. The Commission has previously found that it is proper to transfer plant from Tennessee to North Carolina and from North Carolina to South Carolina and it is, consequently, necessary to transfer the accumulated depreciation associated with that plant.

Company witness Wolfe proposed a pro forma adjustment increasing accumulated depreciation by $55,782. He testified that this adjustment was made as a result of

applying the main station annualization factor of 2.78% to net income. Application of a main station annualization factor to net income has the effect of increasing all revenues and deductions from revenues, including depreciation expense by 2.78%. Mr. Wolfe adjusted accumulated depreciation to reflect the increase in depreciation expense caused by applying the main station annualization factor of 2.78% to adjusted test-period depreciation expense.

Public Staff witness Chappell used a direct calculation method of computing end-of-period depreciation expense. Ms. Chappell computed an increase in depreciation expense of $165,281, on a North Carolina combined basis, by multiplying end-of-test-period plant in service times the applicable depreciation rate for each plant account. Ms. Chappell also increased accumulated depreciation by $165,281 on a North Carolina combined basis, or $134,334 on an intrastate basis, to reflect the corollary adjustment she made to depreciation expense. Witness Chappell testified that increasing depreciation expense to an end-of-period level, or a level greater than actually incurred during the test year, requires the ratepayers to pay in rates to cover this additional depreciation expense. It is necessary to include this increased depreciation expense in the depreciation reserve.

In view of the stipulation entered in this case, the Commission deems it unnecessary to decide the issue presented by the different accumulated depreciation reserve figures and therefore concludes that the accumulated depreciation associated with the gross telephone plant in service of $38,529,253 is not less than $6,114,165 nor more than $6,192,717.

Public Staff witness Chappell proposed deducting unamortized investment tax credits Pre-1971 of $130,560 and accumulated deferred income taxes of $3,046,149 from intrastate telephone plant in service. The Commission recognizes that Company witness Wolfe proposed a different treatment of these cost-free funds. Mr. Wolfe included these items in the capital structure and assigned these funds an embedded cost rate of zero. The Commission also recognizes that the treatment of cost-free funds was covered in the stipulation entered into by all parties involved in the proceeding and, therefore, will not issue an opinion as to the propriety of either of these methods for handling cost-free funds. A resolution of such issue is not necessary to the Commission's determination of United's reasonable overall revenue requirements.

Public Staff witness Chappell also proposed that deferred income taxes on intercompany profits of $789,450 be deducted from telephone plant in service. Witness Chappell testified that this method of handling deferred taxes on intercompany profits assigns to these cost-free funds a return equivalent

to the return the Company can reasonably be expected to earn in the future and the return found fair by this Commission.

Company witness Baker proposed a different method of handling this item. He proposed that a return credit of $164,237, on a North Carolina intrastate basis, be used to reduce operating expenses. The return credit proposed by Mr. Baker was calculated using a toll rate of return of 7.98%, the adjusted settlement ratio for 1976, and a local return of 10.8930%. Mr. Baker admitted during cross-examination that, theoretically, witness Chappell's method of handling deferred taxes on intercompany profits achieved the same result as his method but it just assigned different returns to the deferred income taxes. Mr. Baker also agreed that Ms. Chappell's method would assign to the deferred taxes on the intercompany profits the returns on toll and local operations found fair by the Commission in this proceeding. He did, however, state that he would prefer to see the deferred income taxes on intercompany profits included in the capital structure and assigned a zero embedded cost rate, instead of being deducted from plant in service and rate base.

The Commission concludes that the methods used by Mr. Baker and Ms. Chappell achieve essentially the same result and differ only as to the returns assigned to these cost-free funds. The Commission recognizes that all parties agreed to a stipulation concerning the treatment of cost-free funds and will, therefore, not speak to the propriety of deducting deferred taxes on intercompany profits from telephone plant in service. Such determination is not necessary in order to arrive at the Commission's finding and conclusions on United's reasonable overall revenue requirement.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Company witness Wolfe and Staff witness Chappell each presented a different amount for working capital allowance shown by the chart below:

Item	Company Witness Wolfe	Public Staff Witness Chappell
Cash (1/12 of operating expenses)	$290,001	$295,399
Compensating bank balances	331,595	180,397
Materials and supplies	442,135	442,135
Average prepayments	-	18,409
Less: Average tax accruals	(742,776)	(332,448)
Customer deposits	(68,886)	(68,886)
Total working capital allowance	$252,069	$535,006

Both witnesses' computations of the working capital allowance consist of cash - 1/12 of operating expenses (excluding depreciation and taxes), compensating bank

balances, end-of-period materials and supplies, average tax accruals and end-of-period customer deposits. Ms. Chappell also included average prepayments in her computation of the working capital allowance. There are also differences in the methods of computing several of the above-mentioned components of the working capital allowance as determined by Company witness Wolfe and Public Staff witness Chappell.

Each witness computed the cash component of working capital allowance essentially by dividing intrastate operating expenses, less depreciation, amortization, and taxes, by 12. Company witness Wolfe used operating expenses after accounting and pro forma adjustments shown on Wolfe Exhibit A, Column F plus an annualization adjustment which recognizes that he applied the main station annualization factor to net income. Staff witness Chappell used expense amounts determined on her Schedule 3, Column (e). The differences between the two expense amounts result from adjustments made by Public Staff witness Chappell.

The witnesses did not agree as to the proper amount of compensating bank balances to be included in the working capital allowance. Company witness Wolfe included $331,595 in his allowance for working capital, which represents the North Carolina intrastate portion of average bank collected balances during the test year. Public Staff witness Chappell included an amount of $180,397 which is equivalent to the North Carolina intrastate average cash balance on the books for the test year. The difference between the amount proposed by Mr. Wolfe of $331,595 and the amount proposed by Ms. Chappell of $180,397 is explained by the fact that the amount included by Mr. Wolfe does not recognize the lag between issuance of a check by the Company and the date that the check clears the bank.

Both witnesses were in agreement on the $442,135 amount for end-of-period materials and supplies. Witness Chappell included average prepayments of $18,409 in the working capital allowance. Witness Wolfe did not include this item in his computation of working capital.

Company witness Wolfe deducted average tax accruals of $742,775 in his computation of the working capital allowance, consisting of actual test-period tax accruals of $332,448 and $410,328 which represented (1) the average tax accrual effects of accounting and pro forma adjustments made to tax expense and (2) the tax accrual effects of the proposed rate increase.

Public Staff witness Chappell deducted actual test-period intrastate average tax accruals of $332,448 in her computation of working capital. She did not adjust tax accruals to reflect Company or Public Staff adjustments to tax expense nor to reflect the tax accrual effects of the proposed rate increase.

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 $68,886.

In view of the stipulation entered herein, the Commission deems it unnecessary to decide the differences between the Public Staff and the Company with respect to working capital allowance and therefore decides that the working capital allowance is not less than $252,069 nor more than $535,006.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

In Utilities Commission v. Telephone Co., 281 N.C. 318, 360 (1972), the Supreme Court recognized that proof of "replacement costs" 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 the Company is evidence of original cost. In view of the stipulation entered herein, the Commission has made no determination of United's original cost of net telephone plant in service and therefore makes no determination of fair value.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Wolfe, Public Staff witness Gerringer, and Public Staff witness Chappell presented testimony concerning the representative end-of-period level of total operating revenues. Public Staff witness Gerringer presented testimony concerning United's toll settlements with Southern Bell and the Company's appropriate end-of-period level of intrastate toll revenues. The end-of-period toll revenue amount determined by witness Gerringer was included by witness Chappell in her testimony and exhibit. Company witness Wolfe and Public Staff witness Chappell each offered their consideration of 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 Wolfe	Public Staff Witness Chappell
Local service revenues	$5,449,548	$5,606,831
Toll service revenues	3,216,398	3,486,520
Miscellaneous revenues	264,900	264,900
Uncollectibles	(39,533)	(27,010)
Total	$8,891,313	$9,331,241

The first item of difference in operating revenues stated above concerns local service revenues. Company witness

Wolfe testified that the appropriate level of local service revenues was $5,449,548, the actual amount of local service revenues recorded during the test period, while Public Staff witness Chappell testified that the appropriate level was $5,606,831 or a difference of $157,283.

Company witness Wolfe did not make any accounting or pro forma adjustments to local service revenues. He did, however, apply a main station annualization factor of 2.78% to net income. This has the effect of increasing all revenues, including local service revenues, and all expenses by 2.78%. Application of the annualization factor to net income has the effect of increasing local service revenues by $151,497 ($5,449,548 x 2.78%).

Public Staff witness Chappell proposed that the end-of-period level of subscriber station revenues - monthly service charges and directory assistance revenues, two components of local service revenues, be determined by direct calculation rather than by the main station annualization factor. Witness Chappell calculated end-of-period subscriber station revenues - monthly service charges by multiplying December revenues of $438,250 by 12. From the annualized December revenues of $5,259,000, Ms. Chappell deducted $23,339, which represents the annual revenue decrease ordered in Docket No. P-100, Sub 39. The Commission in that Order allowed United to institute directory assistance charges and ordered that the anticipated increase in revenues and decrease in associated expenses be flowed through in the form of lower local service rates. The annual decrease of $23,339 to be flowed through, as cited in Docket No. P-100, Sub 39, was based on the number of stations at December 31, 1976, the end of the test period. In this manner, Ms. Chappell calculated end-of-period subscriber station revenues - monthly service charges to be $5,235,661 ($5,259,000 - $23,339), which is $148,963 larger than actual subscriber station revenues - monthly service charges during the test year.

Public Staff witness Chappell also directly calculated the end-of-period level of directory assistance revenues. She calculated end-of-period directory assistance revenues of $8,320 by multiplying the revenues for the three months of July, August, and September 1977 by four. Directory assistance charging was instituted by United in June 1977, and, therefore, no directory assistance revenues were recorded during the test year.

Public Staff witness Chappell calculated the end-of-period level of the remaining components of local service revenue using the main station annualization factor of 2.78%. This method is the same method as that proposed by Company witness Wolfe to annualize total local service revenues.

The next area of disagreement between the witnesses concerns the end-of-period level of toll service revenues. In Evidence and Conclusions for Finding of Fact No. 12,

infra, the Commission concludes that the proper amount of end-of-period toll service revenues would not be determined but that end-of-period toll service revenues by accepting Ms. Chappell's treatment of deferred income taxes on intercompany profits would be $3,486,520 and toll service revenues by accepting Mr. Baker's method of calculation would be $3,216,398 before annualization to year-end revenues.

The witnesses were in agreement as to the proper level of intrastate miscellaneous revenues to be included in operating revenues.

The final item of disagreement between the two witnesses involves the appropriate level of uncollectible operating revenues. Company witness Wolfe included an amount of $39,533 for this item while Public Staff witness Chappell included $27,010, or a difference of $12,893. Company witness Wolfe made three adjustments to uncollectible revenues of $12,893 which were recorded on the Company's books. The first adjustment of $2,486 was made to reflect uncollectible revenues which were applicable to the North Carolina operations but had not been actually recorded in test-period uncollectible revenues. The next adjustment proposed by Mr. Wolfe was to increase uncollectibles by $23,936 to eliminate an out-of-period adjustment made to uncollectible revenues during the test year due to toll settlements. The final adjustment was to increase uncollectibles by $218 to reflect the effect of the Company's pro forma adjustments to revenues.

Public Staff witness Chappell testified that she made an adjustment to recognize as test-period uncollectible revenues only the uncollectible revenues relating to local service revenues and miscellaneous revenues. She testified further that the end-of-period toll revenues computed by the Public 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 evidence shows and the Commission concludes that the appropriate level of operating revenues before the annualization adjustment, accepting Ms. Chappell's methods, is not more than $9,331,241, which includes local service revenues of $5,606,831, toll service revenues of $3,486,520, miscellaneous revenues of $264,900, and uncollectible revenues of $27,010, nor, accepting Mr. Baker's methods, less than $8,891,313, which includes local service revenues of $5,449,548, toll service revenues of $3,216,398, miscellaneous revenues of $264,900, and uncollectible revenues of $39,533.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Company witness Wolfe and Public Staff witnesses Gerringer and Chappell presented testimony concerning United's

representative level of end-of-test-period intrastate toll revenues. United determined its toll revenues through toll settlements with Southern Bell using an actual cost contract basis.

Company witness Wolfe showed $3,216,398 as the test-period level of intrastate toll revenues for United after making accounting and pro forma adjustments to the booked intrastate toll revenues. Witness Wolfe made three adjustments to the toll revenues recorded on the books during the test year. The first adjustment was to decrease intrastate toll revenues by $57,209 to eliminate the 1975 toll settlement adjustment recorded during the test year and to include the 1976 toll settlement adjustment recorded subsequent to the end of the test year. Mr. Wolfe proposed increasing intrastate toll revenues by $17,157 to properly reflect the effect of his pro forma adjustments to expenses. Mr. Wolfe's final adjustment increasing toll revenues by $88,449 was made to recognize the effect on toll revenues of the update of the 1976 settlement ratio to 7.98%. Mr. Wolfe did not include in the Company's test-period intrastate toll revenues any estimated amount due to pending changes in the intrastate toll rates.

At the time the Public Staff filed its testimony in this rate case, Southern Bell had filed a general rate case, Docket No. P-55, Sub 768, which included proposed changes in the intrastate toll rates. These toll rate increases were set for investigation in Docket No. P-100, Sub 45, which recognized the involvement of all independent telephone companies in the toll proceedings due to the adoption of uniform intrastate toll rates for all telephone companies in North Carolina. The Commission, in its Order issued September 7, 1977, in Docket Nos. P-55, Sub 768, and P-100, Sub 45, stated that any additional toll settlements that might come to independent telephone companies from Southern Bell's proposed intrastate toll rate changes would be considered in any telephone company's rate case pending before the Commission (i.e., local rate reductions would be considered to offset the additional toll settlements or revenues).

Public Staff witness Gerringer estimated the representative level of end-of-test-period intrastate toll revenues using the accepted toll settlement calculation applicable to cost settlement companies. He utilized the intrastate toll net investment (based on settlement rate base) and operating expenses and an intrastate toll settlement ratio, all adjusted or restated to an end-of-test-period level as of December 31, 1976. The intrastate toll settlement ratio used for this calculation was 9.12%. This ratio reflected an estimate of the impact of the pending proposed changes in the intrastate toll rates as applied to a proformed settlement ratio prior to any toll rate changes.

Using the 9.12% ratio, the representative level of end-of-test-period intrastate toll revenues for United was calculated to be $3,443,896 for message toll, WATS, and B-I interexchange private line services. To arrive at the total intrastate toll revenue level, a noncost study amount of revenues for I-I private line services of $4,532 had to be added, yielding a revenue level of $3,448,428. Public Staff witness Chappell testified that she used Public Staff witness Gerringer's amount of $3,448,428 and adjusted that amount by adding $89,070 to reflect the intrastate toll revenue effect of her adjustments to operating expenses, by deducting $4,908 to reflect the intrastate toll revenue effect of her adjustment to accumulated depreciation and, finally, by deducting $46,070 to reflect the intrastate effect on toll revenues of her treatment of deferred taxes on intercompany profits. This results in a final end-of-test-period level of intrastate toll revenues of $3,486,520 ($3,448,428 + $89,070 - $4,908 - $46,070).

The Commission discussed the treatment of deferred taxes on intercompany profits in Evidence and Conclusions for Finding of Fact No. 8. The Commission found that the treatment of cost-free funds was covered by the stipulation entered into by all parties and the propriety of each witness' proposal was not decided. Ms. Chappell decreased intrastate toll revenues by $46,070 to reflect the effect of her treatment of deducting deferred taxes on intercompany profits from telephone plant in service. The Commission will not discuss or determine the propriety of this adjustment because the adjustment is based on Ms. Chappell's treatment of deferred taxes on intercompany profits.

The Commission concludes that if the validity of Public Staff witness Chappell's treatment of deferred income taxes on intercompany profits is not determined, then the reasonable level of toll service revenues cannot be determined. The Commission recognizes that the representative level of end-of-test-period intrastate toll revenues for United based on the calculations of Public Staff witnesses Gerringer and Chappell, accepting the adjustment to reflect the effect on toll revenues of Ms. Chappell's treatment of deferred taxes on intercompany profits, would be $3,486,520. The Commission further recognizes that toll service revenues before annualization to year-end revenues, as calculated by Company witness Wolfe, would be $3,216,398. The Commission recognizes that Chappell Cross-Examination Exhibit 1, entitled "Calculation of the Degree of Change Needed in the Intrastate Toll Settlement Ratio to Achieve a 14.29% Return on Equity," showed that a toll settlement ratio of 12.71% would be required to allow the Company to earn the 14.29% return on common equity recommended by Public Staff witness Rosenberg. In the event that the settlement ratio exceeds 12.71% following any increase allowed in the pending toll rate proceeding, the Commission will require United to file revised tariffs to flow through the excess revenues.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Company witness Wolfe and Public Staff witness Chappell presented testimony and schedules 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 United. The following tabular summary shows the amounts presented by each witness:

Item	Company Witness Wolfe	Public Staff Witness Chappell
Operating expenses	$3,397,929	$3,510,891
Depreciation	2,006,543	2,141,594
Other operating taxes	1,029,757	1,059,315
Income taxes - State and Federal	600,235	581,901
Interest on customer deposits	5,138	3,336
Annualization adjustment	(51,478)	25,245
Total	$6,988,124	$7,322,282

The first item of difference in the operating revenue deductions stated above concerns operating expenses. Company witness Wolfe testified that the appropriate level is $3,397,929 while Public Staff witness Chappell testified that the appropriate level is $3,510,891, or a difference of $112,962. The $112,962 is comprised of the following adjustments made by Public Staff witness Chappell.

Item	Intrastate Amount
1. Adjustment to wages for wage increases occurring in August and December of 1976 and in January and August of 1977 and to adjust wages to reflect the effects of the proposed merger with Carolina Telephone and Telegraph Company	$ (10,071)
2. Adjustment to eliminate out-of-period maintenance expense due to an erroneous jumper count	(4,373)
3. Adjustment to eliminate the engineering salaries actually expensed during January, February, and March 1976	(805)
4. Adjustments to General Services and Licenses for the following:	
a. Elimination of return credit on deferred income taxes on intercompany profits	164,237
b. Exclusion of contributions	(1,692)
c. Exclusion of research and development expenses	(35,730)

5. Adjustment to pensions resulting from the wage adjustments proposed by the Public Staff	(1,729)
6. Adjustment to expenses charged to construction resulting from Public Staff's proposed adjustments to wages	3,125
Total	$ 112,962

The Commission will now discuss each of the preceding adjustments comprising the $112,962 difference in operating expenses. The first adjustment listed above concerns an adjustment to maintenance, traffic, commercial, and general office expenses for salaries and wages. Company witness Wolfe increased intrastate operating expenses by $71,251 for wage increases effective August 15, 1976, and December 1, 1976. Public Staff witness Chappell adjusted Mr. Wolfe's adjustment to wages to eliminate the wage increase associated with district employees in Tennessee and Virginia who do not benefit the North Carolina operations. Ms. Chappell further adjusted wages to reflect increases effective January 1977 and August 1977 after the end of the test year. She made one further adjustment to wages and salaries to reflect personnel changes made in anticipation of the merger of United into Carolina. The result of these adjustments to wages proposed by Public Staff witness Chappell was to decrease operating expenses by $10,071 on a North Carolina intrastate basis.

The next adjustment proposed by Public Staff witness Chappell was made to maintenance expense to eliminate an out-of-period amount. A correcting journal entry was made during March 1976 for an erroneous jumper count made in December 1975. Ms. Chappell decreased operating expenses by $4,373, on an intrastate basis, in order to eliminate this out-of-period item from test-period operations.

The next adjustment proposed by witness Chappell was to Account 665 - Engineering Salaries expense. Ms. Chappell testified that prior to April 1976 United had been capitalizing approximately 90% of engineering salaries. She testified that the Company had reevaluated this policy and beginning April 1976 had begun expensing a greater portion of engineering salaries. Company witness Wolfe made an adjustment to recognize that the engineering salaries expense for January through March 1976 was understated because of the change in policy. Public Staff witness Chappell concurred with the propriety of this adjustment but testified that the adjustment as proposed by Mr. Wolfe was calculated in error by $805 on an intrastate basis. She testified that the reason for the $805 error was that Mr. Wolfe calculated the full annual effect of the Company's change in policy of expensing engineering salaries but did not deduct from this amount the actual engineering salaries expensed during January through March of 1976.

The next three adjustments made by Public Staff witness Chappell were to general services and license expense. The first adjustment proposed by witness Chappell increased operating expenses by $164,237, on an intrastate basis, and was made to eliminate the return credit on deferred income taxes on intercompany profits computed by Company witness Baker. Mr. Baker testified that he computed the return credit on deferred taxes on intercompany profits using a toll return equivalent to the 1976 settlement ratio of 7.98% and a local overall return of 10.8930%. Witness Chappell testified that in her opinion the most fair and equitable method of handling this item is to treat deferred taxes on intercompany profits as cost-free capital and to deduct it from telephone plant in service. She testified that this treatment assigns returns to the deferred taxes equivalent to those returns found fair by the Commission in this proceeding.

The next adjustment to general services and licenses proposed by witness Chappell was an adjustment to eliminate contributions allocated to United Telephone Company of the Carolinas from United Service System. Witness Chappell testified that inclusion of contributions in test-period operating expenses has the effect of requiring United's ratepayers to be involuntary donors to charitable organizations of the Company's choice.

The final adjustment to general services and licenses proposed by Public Staff witness Chappell was to eliminate research and development expenses from test-period operating expenses. Witness Chappell testified that United Telecommunications, Inc., had entered into a definitive agreement with International Telephone and Telegraph Company (ITT) for the sale of North Electric Manufacturing Company. She further testified that, effective with that sale, research and development expenses would no longer be passed on to the telephone operating companies. The adjustment decreased operating expenses by $35,730 and was contingent on the sale of North Electric Manufacturing Company.

The final two adjustments proposed by witness Chappell were to relief and pensions expense and to expenses charged to construction. These adjustments were made to reflect the effect on pension expense and expenses charged to construction of Ms. Chappell's adjustments to wages and salaries.

Company witness Baker and Company witness Browning introduced late filed exhibits proposing expense adjustments which were not considered in Mr. Wolfe's or Ms. Chappell's exhibits. Company witness Baker introduced Baker Exhibit No. 3 entitled "System Engineering Allocation to United Telephone Company of the Carolinas, Inc." This exhibit calculated an adjustment to increase intrastate operating expenses by $6,044. He testified that effective with the proposed sale of North Electric Manufacturing Company to International Telephone and Telegraph Company, research and

development will no longer be passed on to the telephone operating companies. He stated that some related expenses would be of a continuing nature and that the appropriate allocation of the portion of these expenses applicable to United's North Carolina intrastate operations was $6,044.

Company witness Browning presented an exhibit showing the effect on North Carolina intrastate wages and salary expense of a bargaining agreement effective December 1, 1977. He testified that effective December 1, 1977, wage and salary expense would increase by $135,601 on a North Carolina intrastate basis.

The next area of disagreement between the two witnesses concerns the appropriate level of depreciation expense to be included in operating revenue deductions. Witness Wolfe proposed an accounting adjustment of $3,306 to depreciation expense to reflect the appropriate annual level of North Carolina intrastate depreciation expense applicable to plant transferred from Tennessee to North Carolina and from North Carolina to South Carolina. Public Staff witness Chappell concurred with this adjustment.

The witnesses disagreed, however, on the appropriate end-of-period or pro forma adjustment to depreciation expense. Company witness Wolfe applied a main station annualization factor of 2.78% to net income, which had the effect of increasing depreciation expense by 2.78%. Public Staff witness Chappell used a direct calculation method to determine end-of-period depreciation expense. She calculated end-of-period depreciation expense by multiplying end-of-period plant in service by the depreciation rates presently in effect. She computed end-of-period depreciation expense to be $2,141,594.

The next area of disagreement between the witnesses concerns the appropriate end-of-period level of other operating taxes. The differences between the two witnesses are shown below:

Item	Company Witness Wolfe	Public Staff Witness Chappell
Payroll taxes	$128,649	$127,363
Gross receipts tax	530,428	560,916
Property taxes	370,471	370,827
Other operating taxes	209	209
Total	$1,029,757	$1,059,315

Company witness Wolfe made an adjustment increasing actual payroll taxes by $4,954 on an intrastate basis to reflect the effect on payroll taxes of his adjustment to wages and salary expense. Public Staff witness Chappell decreased Mr. Wolfe's adjusted payroll taxes by $1,286 to reflect the adjustments she proposed to wage and salary expense.

Gross receipts tax is the next item of disagreement between the two witnesses. Company witness Wolfe testified that the appropriate level of gross receipts tax was $530,428, while Public Staff witness Chappell testified that the appropriate level was $560,916, a difference of $30,488. The amount of $30,488 is explained by the difference in the two witnesses' proposed levels of gross revenues.

The final item of disagreement in other operating taxes between witness Wolfe and witness Chappell concerns property tax. Witness Wolfe proposed an adjustment to transfer property tax applicable to the telephone plant transferred from Tennessee to North Carolina and from North Carolina to South Carolina. Witness Chappell concurred with this adjustment.

Company witness Wolfe used the main station annualization factor of 2.78% to bring property taxes to an end-of-period level. Public Staff witness Chappell used the 1977 property tax estimate as end-of-period property tax. She increased property tax by $356 on an intrastate basis to reflect the increase in the 1977 property tax estimate amount over the actual test-period amount. 1977 property tax estimates were based on telephone plant in service at January 1, 1977, or the end of the test year, and tax rates presently in effect.

The next operating revenue deduction upon which the witnesses disagree is State and Federal income tax. Although the witnesses used the same statutory tax rates, their resulting tax amounts were not equal due to different levels of operating revenues and operating revenue deductions claimed by each witness in computing taxable income. The 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 proper level of North Carolina intrastate State and Federal income tax cannot be determined in this proceeding because the appropriate level of toll revenues, gross receipts tax, and fixed charges, all component parts in the calculation of income taxes, cannot be determined.

The next item of disagreement between the two witnesses concerns interest on customer deposits. Company witness Wolfe recommended that a North Carolina intrastate amount equivalent to actual test-period interest on customer deposits allocated to North Carolina of $5,138 be included as an operating revenue deduction. Public Staff witness Chappell directly computed an intrastate end-of-period level of interest on customer deposits of $3,336 by deducting from end-of-test-period customer deposits of $85,541 an amount of $16,507, which represents customer deposits received during the last 90 days of the test period. She then multiplied the resulting amount of $69,034 ($85,541 - $16,507) by the appropriate interest rate of 6%. The resulting interest of $4,142 ($69,034 x 6%) allocated to North Carolina intrastate operations was $3,336.

The final item of difference is in the amounts presented by witness Wolfe and witness Chappell for the annualization adjustment. Company witness Wolfe multiplied the main station annualization factor of 2.78% by his adjusted intrastate net operating income of $1,851,711 to determine his annualization adjustment increasing net income by $51,478. Public Staff witness Chappell computed her annualization adjustment to net income of $25,245 by multiplying the main station annualization factor of 2.78% by operating revenues and operating revenue deductions which she had not directly calculated to an end-of-period level.

In view of the stipulation entered herein, the Commission views it unnecessary and declines to decide the differences between the two witnesses and, therefore, finds and concludes that the representative level of intrastate operating revenue deductions is not less than $6,988,124 nor more than $7,322,282, including the annualization adjustment.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-16

The evidence for these findings is contained in the testimony and exhibits of Company witnesses Wolfe and Brennan, Public Staff witnesses Chappell and Rosenberg, and in the stipulation which was entered into between the parties during the course of the hearings held in Raleigh. The Commission has heretofore discussed the testimony and exhibits of witnesses Wolfe and Chappell and the differences in methodology and result between the two. No further discussion or elaboration is necessary other than to note that witness Wolfe (Exhibit C) contended that the entire amount of the proposed rate increase, when applied to test year operations, would produce a rate of return of 7.84% on rate base and 9.60% on common equity, whereas witness Chappell (Exhibit 1, Schedule 1) contended that the proposed increase would produce a return of 9.37% on rate base and 11.78% on common equity.

Company witness Brennan stated that in his opinion the overall cost of capital and fair rate of return to United, relative to the rate base valued at original cost, is 9.70%. The witness also contended that the proper cost rate and fair rate of return for United to earn on its book common equity is 13.5%. Public Staff witness Rosenberg testified that, in his opinion, the overall cost of capital and fair rate of return which United should be allowed to earn on its investment used and useful in North Carolina is 10.35%. He testified that United should be allowed to earn 12.75% on its equity, due in large part to the fact that all of United's equity is owned by a parent corporation and not by individual shareholders. There were many significant differences in the methodology employed by the two witnesses. Again, in view of the stipulation entered into between the parties during the hearing, it is unnecessary to discuss these differences in detail or to resolve them in order to reach our ultimate conclusion that the entire

amount of increased annual revenues requested by United in this proceeding should be allowed.

The stipulation reads, in material part, as follows:

> "The parties have agreed, and it is abundantly clear from the record, that the rate increase requested by Applicant and which would be produced by the proposed rate structure, is less than that which the evidence of the Company or the Public Staff shows to be just and reasonable. While the Applicant's evidence tends to show a greater revenue deficiency produced from the requested rates than does the Public Staff's evidence, such is academic here inasmuch as in either event there is a revenue deficiency. We conclude, therefore, that the level of rate increase requested by Applicant is no more than just and reasonable and will produce something less than a fair and reasonable rate of return. In view of the foregoing, it is entirely unnecessary to consider or to adjudicate the differences between Applicant and the Public Staff which we have hereinbefore referred to, and we specifically refrain from so doing."

The stipulation was agreed to and signed by counsel for the Company and the Public Staff and was accepted by the Commission. In light of the stipulation, we have heretofore declined to adjudicate or decide whether the Public Staff or the Company is correct in its treatment of cost-free capital items, i.e., whether such items should be deducted from the plant investment or rate base, as the Public Staff contended, or included in the capital structure at zero weight, as the Company contended. Thus, we were unable to reach ultimate findings or conclusions on rate base, test year revenues, or test year expenses and are now unable to reach an ultimate finding or conclusion with regard to the fair rate of return on rate base or common equity which United should be allowed to earn. However, the parties have stipulated, and we agree, that regardless of which position we might take in deciding the proper treatment of cost-free capital items, the resulting rates of return would be substantially below the rates recommended by Public Staff witness Rosenberg, whose rates were the lowest of the two expert witnesses who testified in this area.

Though approval of the entire $1,441,039 rate increase requested will not allow the Company to recover its entire cost of service, including capital costs, these additional dollars will produce total annual revenues more nearly approximating United's end-of-test-period cost of service. We conclude, therefore, that the entire rate increase request should be approved and that United should be allowed to increase its local rates and charges so as to produce no more than $1,441,039 in additional annual gross revenues.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 AND 18

Ross A. Spink, Jr., Manager of the Revenue Requirements Department for United Telephone Company of the Carolinas, Inc., testified regarding the Applicant's proposed rate structure. He stated that the proposed rate structure was designed to recover the Company's proposed additional revenue requirements of $1,441,034. Mr. Spink commented that the Company will seek Commission approval to merge the properties of the Company with those of Carolina in the near future. For that reason, the rate schedule developed for this application was designed to bring United's rates in line with those presently used by Carolina insofar as possible.

Mr. Spink indicated that there is one important exception in the comparability of his rate proposals to those rates of Carolina. He stated that the Company's matrix formula proposal for Extended Area Service (EAS) was prepared by Company witness Wooten in order to insure that the Company recovered its total cost-of-service revenue requirements for providing this service.

Other tariff revisions by Mr. Spink include revised charges for the basic local exchange service components, EAS components, service connection charges, directory listings, coin telephone service, telephone answering service facilities, key and pushbutton service, private exchange service, miscellaneous service arrangements, auxiliary equipment, connection with certain facilities and/or equipment of others, data service, and obsolete service offerings.

Mr. Spink proposed a tariff providing for automatic reclassification of any exchange to its proper calling scope rate group whenever the local calling scope of that exchange exceeds or falls below the calling scope limits of its existing effective rate group classification, based on average annual stations on a fixed annual review date, or when an extended area service arrangement is established. Mr. Spink contended that his provision assures a continuing and orderly reclassification of United's exchanges based on changes in main station availability. He stated that it is also consistent with the value of service concept and avoids discrimination between customers similarly situated.

William J. Willis, Jr., Rates and Tariff Engineer of the Telephone Division, testified that his responsibility in this docket entailed reviewing and commenting upon the proposed structure of local service rates submitted by United with two exceptions. The scope of his assignment did not include the Company's EAS proposal, for which Public Staff witness Gerringer is responsible, and service connection charges and tariffs, for which Public Staff witness Carpenter is responsible.

Mr. Willis stated that, for the most part, the Company's basic local exchange rate components have been proposed at levels identical to the Carolina rates currently on file with the Commission, that the basic exchange rates are proposed to be grouped in the identical manner as Carolina's, and that the proposed rates have the same relationship between residences, businesses, key trunks, and PBX trunks as Carolina's.

Mr. Willis recommended the deletion of Paragraph U3.2.4(a) of the Company's tariff proposal, which encompasses its rate group reclassification provisions. He testified that an identical tariff provision was filed by Carolina on May 23, 1977, and that such tariff has been disapproved by the Commission. He further remarked that he could find no valid purpose in the entire proposed Paragraph U3.2.4 section other than Paragraph (b), which establishes a rate for extended area service that may be readily employed for purposes of polling the customers prior to the creation of a new EAS area. Mr. Willis stated that the tariff does not provide for public notice or hearing nor require sufficient information to allow a full financial audit, which would weaken the Public Staff's ability to render an appropriate recommendation to the Commission. Mr. Willis stated that the proposed tariff provision would not remove discrimination between customers similarly situated, as the Company contended, since a reasonable amount of discrimination is already built into the present rate structure. The present rate structure allows exchanges with widely varying local calling scopes to be charged at the same rate. He further contended that, with uniform growth, the relative value of service between exchanges will remain the same. Mr. Willis also commented that he was not aware of any correlation between an increase in the Company's expenses and the growth of an exchange from one group to another. He concluded that approval of this tariff provision would cause a disproportionate amount of the Company's revenue requirements to be shifted to an exchange merely because it outgrew its previous rate grouping.

Company witnesses Spink and Wooten and Public Staff witness Gerringer presented testimony regarding United's proposed extended area service rate plan. United presently has no EAS rate plan and has proposed in this docket a plan which is identical in format and application to the plans the Commission has heretofore approved for Carolina Telephone and Telegraph Company in Docket No. P-7, Sub 601, and for Central Telephone Company (Central) in Docket No. P-10, Sub 351.

Company witness Spink and Public Staff witness Gerringer testified that the format for these EAS plans, including United's proposed plan, is characterized by a matrix of EAS additive rates that are determined for an individual exchange desiring an EAS by considering the exchange's calling scope without EAS, the total additional calling scope added by the EAS exchanges, and the total accumulated

interexchange airline mileage between the EAS exchanges. Company witness Spink testified that United proposed to apply this EAS plan not only to determine EAS additive rates for all its exchanges that presently have EAS (13 out of 14), but also to use the plan to determine rate increases that would be required for newly proposed EAS arrangements. Further, he testified that the same EAS additive rate would be applied to both residence and business customers within an exchange having EAS.

Public Staff witness Gerringer testified that the major difference between United's proposed plan and the plans heretofore approved for Carolina and Central is in the amounts of the EAS additive rates that appear in the matrix. The individual additive rates proposed by United are approximately three times greater than the ones presently included in the Carolina and Central plans.

Company witness Wooten testified that the method he used to determine a total EAS revenue requirement of $2,264,753 was an allocated embedded cost approach. This method determined the costs to be allocated to EAS based on an EAS minutes of use factor which was calculated in the same manner as toll cost separations studies. The EAS revenue requirements were ultimately determined, in part, by applying a 9.6% rate of return to the net investment allocated to EAS. The 9.6% rate of return related closely to the 9.7% weighted cost of capital recommended by Company witness Brennan.

Company witness Spink testified that he took the total EAS revenue requirement calculated by Mr. Wooten and first determined the amount that would be generated through basic rate differentials resulting from regrouping all the exchanges having EAS. This was accomplished by first placing each exchange in its proper rate group as if it had no EAS and then regrouping it based on the added calling scope provided by its EAS exchanges. The rate groups used for this purpose were the ones proposed by the Company in this docket. The remaining balance of the total EAS revenue requirement was then used to determine the EAS additive rates in the proposed matrix.

Public Staff witness Gerringer in his testimony described the basic differences between the embedded cost approach methodology used by United in its proposed EAS plan in this case and the methodology previously used to develop the EAS plans approved by the Commission for both Carolina and Central. The approved plans were developed by Carolina based on the results of full EAS incremental cost studies for specific EAS arrangements. The incremental costs included (1) annual carrying charges on additional circuits and central office equipment needed to provide the EAS under consideration and (2) loss of toll revenues which were determined for more recent EAS arrangements by employing the toll settlement format in which an intrastate toll settlement ratio was used. This incremental procedure

resulted in a substantially lower EAS revenue requirement than the weighted cost of capital procedure used by United in determining its EAS revenue requirement with the same toll settlement format.

Public Staff witness Gerringer further testified that, in his opinion, EAS is, in reality, an extension of local service. He stated that, since part of the EAS revenue requirement is generated by regrouping, which reflects past Commission decisions recognizing the difference in value of local service to businesses and residences, expressed as a B-1 to R-1 rate multiple, then the EAS matrix additive rates which generate the balance of the EAS revenue requirement not earned by regrouping should also reflect a business to residence service basic rate multiple relationship.

Finally, Public Staff witness Gerringer testified that, even though United's allocated embedded EAS cost approach might have merit where EAS already exists and no new EAS is pending or anticipated, the Commission may desire to further analyze this cost approach before adopting it since it is substantially different from the plans previously approved for and implemented by Carolina and Central. In particular, the question of the proper rate of return used to determine the EAS revenue requirement should be studied. Mr. Gerringer recommended that a plan similar to that approved for Carolina and Central, with certain modifications, be approved for United. The suggested modifications consisted of: (1) increasing the EAS additive rates in the Carolina matrix to produce a percentage change in revenues equal to the overall percentage change in revenues that the Commission may grant United as a result of this rate case and (2) having two EAS matrices of additive rates, one for business service and one for residence service, with the business EAS additive rates being approximately 2.5 times the residence EAS additive rates in order to reflect the same multiple relationship between business one-party and residence one-party basic rates that have previously existed and that the Public Staff has recommended for United in this docket.

During the presentation of evidence herein, the Commission requested United to prepare a revised set of EAS matrix rates, using the assumption that business subscribers would pay a flat EAS rate equal to twice the residential rate for the same groups. Such study was prepared and furnished to the Commission and the Public Staff on December 21, 1977.

Millard N. Carpenter, III, Rate Analyst of the Telephone Division, testified regarding his evaluation of the Applicant's proposals for changes in service charges and other nonrecurring charges. Mr. Carpenter presented an alternate format for the application of service charges which he recommended in lieu of the Applicant's proposal. He recommended an increase in the service charges under that format to at least the level proposed by the Applicant. Mr. Carpenter also suggested that the installation charge for

jacks and the Schedule B charges for long cords be reduced and that these charges be integrated with the basic service charges. He recommended that the provisions for application of the jack charge reflected in his exhibit be modified so as to be consistent with the provisions expected to be filed by Carolina before the end of the year. Mr. Carpenter also proposed an end-of-period adjustment to nonrecurring charge units for use in additional revenue calculations. He commented that the Company's historic growth patterns might be influenced by repression of requests for service activity but that he had no indication of how significant such repression might be.

Based on the testimony and exhibits of Mr. Spink, Mr. Willis, Mr. Gerringer, and Mr. Carpenter, the Commission reaches the following conclusions with regard to tariff provisions, rates, and charges to be approved for United Telephone Company of the Carolinas, Inc.

1. Basic Rate Schedule

(a) The Commission concludes that the ratios between business and residence (2.5:1), key trunks and business (1.2:1), and PBX trunks and business (2:1) now being utilized by Carolina are just and reasonable and appropriate for use by United and that the basic local service rates contained in Appendix A attached to this Order should be approved.

(b) The Commission concludes that the Carolina format of 15 rate groups should be established for United.

(c) The Commission concludes that an annual review of local exchange rates for regrouping is not essential to the maintenance of a reasonable local rate structure based on relative value of service. The Applicant's proposed tariff for Reclassification and Updating of Groupings, EAS Components, and Base Rate Areas should, therefore, be disapproved.

(d) The Commission concludes that a formal EAS plan should be approved for United since no such plan presently exists; however, the Commission declines at this time to depart from the EAS cost approach used to develop plans heretofore approved for Carolina and Central and, in that regard, concludes that use of United's allocated embedded cost approach is not satisfactorily supported without further study and evidence. An EAS plan based on the Carolina plan and including the foregoing modifications is contained in Appendix A. The plan contains two EAS additive rate matrices, one for business service and one for residence

service, which the Commission concludes are consistent with the determination of basic service group rates and should be adopted. This plan, including the regrouping of revenues, produces approximately 67% of the EAS revenue requirement that United's proposed EAS plan produced. United's local service components were adjusted accordingly to arrive at the Company's total revenue requirement.

2. Service Charges

The Commission concludes that the service charge schedule contained in Appendix B should be implemented substantially as proposed by the Public Staff since it provides a more equitable basis for the application of service charges. The Commission concludes that the level of charges proposed by United is reasonable and that a schedule in the format recommended by the Public Staff in this docket should be adopted. The Commission recognizes that the total of charges applicable for a given request may vary from that filed by United, but the two schedules will produce approximately the same overall revenue. The Commission concludes that changes in the nonrecurring charges for cords and jacks should be made as recommended by the Public Staff.

The Commission concludes that the Public Staff's proposal for an end-of-period adjustment to data filed by United for use in calculation of additional revenue to be obtained from changes in service charges is appropriate and should be used in revenue calculations in this case.

3. Other Local Services

The Commission concludes that the rates and charges applicable to miscellaneous services, auxiliary equipment and similar service offerings should be adjusted to the levels shown in Appendix A.

IT IS, THEREFORE, ORDERED:

1. That United Telephone Company of the Carolinas, Inc., be, and hereby is, authorized to adjust its North Carolina local exchange telephone rates and charges as set forth below to produce, based upon stations and operations as of December 31, 1976, additional annual gross revenues not to exceed $1,441,039.

2. That the rates, charges, and regulations set forth in Appendices A and B attached hereto, which will produce, based upon stations and operations as of December 31, 1976, a net increase in gross revenues of approximately $1,441,039, be, and hereby are, approved to be charged and implemented by the Applicant. The recurring rates, charges,

and associated regulations will become effective on service to be rendered on and after the date of this Order. The nonrecurring rates, charges, and associated regulations will become effective beginning with service requested four days after the date of this Order. 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 United shall file the necessary revised tariffs reflecting the changes in rates, charges, and regulations shown in Appendices A and B within 10 days from the date of this Order.

4. That United shall give notice to its customers of the Commission's actions herein by appropriate bill insert in the Company's next regular billing statement.

5. That United is hereby directed to perform its own analysis of busy season traffic study data accumulated for each central office and to take steps which will produce a more even distribution of traffic usage among line finder and connector switching groups. The Public Staff is requested to review the Company's progress and to determine whether or not the Company's response is sufficient to achieve this objective by December 31, 1978.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of March, 1978.

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

NOTE: See part of Appendix A below. For the remainder of Appendix A and Appendix B, see the official Order in the Office of the Chief Clerk.

APPENDIX A
UNITED TELEPHONE COMPANY OF THE CAROLINAS, INC.
DOCKET NO. P-9, SUB 138

BASIC LOCAL SERVICE
EXCHANGE RATE GROUPS
LOCAL EXCHANGE SERVICE RATE COMPONENTS

Monthly Local Exchange Service Component

Group	Main Stations Plus PBX Trunks	Residence Ind.	Residence 2-Pty	Residence 4-Pty	Business Ind.	Business 2-Pty	Business 4-Pty
1	0-1,000	7.05	6.20	5.65	17.15	14.90	13.55
2	1,001-1,400	7.30	6.40	5.85	17.80	15.45	14.05
3	1,401-2,000	7.55	6.65	6.05	18.40	16.00	14.55
4	2,001-2,800	7.80	6.85	6.25	19.05	16.55	15.05
5	2,801-4,000	8.05	7.05	6.45	19.65	17.05	15.50
6	4,001-5,600	8.35	7.35	6.70	20.40	17.70	16.10

7	5,601-8,000	8.60	7.55	6.90	21.05	18.30	16.60
8	8,001-11,200	8.90	7.80	7.15	21.80	18.95	17.20
9	11,201-16,000	9.20	8.10	7.35	22.50	19.55	17.75
10	16,001-22,400	9.55	8.40	7.75	23.40	20.35	18.45
11	22,401-32,000	9.85	8.65	7.90	24.15	21.00	19.05
12	32,001-44,800	10.20	8.95	8.15	25.00	21.75	19.75
13	44,801-64,000	10.55	9.25	8.45	25.90	22.50	20.45
14	64,001-89,600	10.95	9.60	8.75	26.90	23.35	21.25
15	89,601-128,000	11.35	9.95	9.10	27.90	24.25	22.05

U3.2.3 RECLASSIFYING MAIN STATIONS

When only one station is connected to a two-party line within the Base Rate Area, the company may, after 30 days' written notice to the subscriber, reclassify the service to one-party and apply the applicable one-party rate.

U3.2.4 RECLASSIFICATION OF GROUPINGS AND EAS COMPONENTS

When extended area service is to be established, tariffs shall be filed with the North Carolina Utilities Commission at least one month prior to the inauguration date of the service. Unless advised otherwise, the tariff rate shall be those of the correct rate group and EAS component classification for the average number of main stations, PBX trunks, and equivalents for the 12-month period prior to two months before the inauguration date of the service.

Supporting information including units, present and proposed rates and revenues, changes in revenues, and other pertinent information shall be provided necessary for a complete analysis.

LOCAL EXCHANGE AND EXTENDED AREA SERVICE COMPONENTS

	Residence				Business			
Exchange	Ind.	2-Pty	4-Pty	EAS	Ind.	2-Pty	4-Pty	EAS
Angier	11.35	9.95	9.10	1.80	27.90	24.25	22.05	4.55
Bonlee	8.35	7.35	6.70	1.20	20.40	17.70	16.10	3.05
Carthage	9.55	8.40	7.75	1.75	23.40	20.35	18.45	4.45
Fuquay-Varina	11.35	9.95	9.10	1.55	27.90	24.25	22.05	3.95
Gibsonville	10.20	8.95	8.15	1.65	25.00	21.75	19.75	4.20
Goldston	8.35	7.35	6.70	1.25	20.40	17.70	16.10	3.20
Kernersville	10.95	9.60	8.75	1.25	26.90	23.35	21.25	3.20
Pinehurst	9.20	8.10	7.35	1.60	22.50	19.55	17.75	4.05
Pittsboro	7.80	6.85	6.25	-	19.05	16.55	15.05	-
Robbins	9.55	8.40	7.75	1.90	23.40	20.35	18.45	4.80
Siler City	8.35	7.35	6.70	.80	20.40	17.70	16.10	2.05
Southern Pines	9.20	8.10	7.35	1.45	22.50	19.55	17.75	3.70
Vass	9.20	8.10	7.35	1.75	22.50	19.55	17.75	4.45
Whispering Pines	9.20	8.10	7.35	1.75	22.50	19.55	17.75	4.45

DOCKET NO. P-53, SUB 41

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Joint Petition of Sandhill Telephone Company and Mid-Continent Telephone Corporation seeking Authority to Transfer Controlling Interest of Sandhill Telephone Company to Mid-Continent Telephone Corporation	))))	ORDER APPROVING ACQUISITION OF SANDHILL TELEPHONE COMPANY BY MID-CONTINENT TELEPHONE CORPORATION

BY THE COMMISSION: This matter comes before the Commission upon the joint application of Sandhill Telephone Company through its counsel Lamont Brown and James E. Holshouser, Attorneys at Law, Southern Pines, North Carolina 28387, and Mid-Continent Telephone Corporation through its counsel, George McConnaughey, Attorney at Law, Columbus, Ohio, and F. Kent Burns, Attorney at Law, Raleigh, North Carolina 27602. The purpose of the application was to obtain approval of the acquisition of all of the outstanding voting common stock of Sandhill Telephone Company (hereinafter "Sandhill") by Mid-Continent Telephone Corporation (hereinafter "Mid-Continent"). Subsequent to the acquisition of the stock, Sandhill will continue to provide telephone service to the public as now provided by it.

Based upon the verified application and the exhibits filed with the application, the Commission makes the following

FINDINGS OF FACT

1. The Applicant Sandhill is engaged in the business of providing telephone service to the public in the areas of Aberdeen and Wagram and portions of Scotland, Hoke, and Moore Counties, North Carolina, under a certificate of public convenience and necessity heretofore issued to it by the Commission.

2. Mid-Continent is a telephone holding corporation providing local and long distance service through 285 exchanges of 23 operating subsidiaries in 12 states. In North Carolina, Mid-Continent owns and operates Mid-Carolina Telephone Company which provides telephone service to over 94,000 stations in all or parts of 16 North Carolina counties. The territory served by Sandhill is contiguous to territories now being served by Mid-Carolina in Moore, Scotland, and Hoke Counties. Due to its size and operations in North Carolina and elsewhere, Mid-Continent can provide additional depth, engineering and technological expertise and continuity of management for Sandhill.

3. That Earl O. Freeman, Ethel F. Short, Margaret S. Freeman, Merline D. Freeman, and Rebecca F. Wagner, being all of the common stockholders of Sandhill on the one hand and Mid-Continent on the other hand have executed a plan of

reorganization, a copy of which was attached as Exhibit 1 and made a part of the application. Pursuant to the plan of reorganization, Mid-Continent will at the closing exchange 105,377 of the voting common stock of Mid-Continent for all of the then outstanding capital stock of Sandhill. Sandhill will then become a wholly-owned subsidiary of Mid-Continent but will continue to exist as at present as a separate corporation.

4. That the subject application entails solely the transfer of personally owned shares by individual stockholders of Sandhill to Mid-Continent for Mid-Continent shares and the transfer does not in any legal manner alter or change the operations of the applicant as a separately incorporated public utility in North Carolina. The property of Sandhill will continue to be reflected on the books of Sandhill at its original cost and the determination of Sandhill's rates will continue to be made on the basis of Sandhill's own revenues, expenses and investment.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Commission concludes that the acquisition of all of the outstanding common stock of Sandhill by Mid-Continent:

(1) Is for a lawful object within the corporate purposes of the companies involved in this transaction.

(2) Is compatible with the public interest.

(3) Is consistent with the proper performance by the Petitioner Sandhill of its service obligation to the public.

(4) Will not impair the ability of Sandhill to perform such service.

(5) Is reasonably necessary and appropriate for such service to the public.

IT IS, THEREFORE, ORDERED that Mid-Continent Telephone Corporation be and it is hereby authorized to acquire all of the outstanding common stock of Sandhill Telephone Company as proposed in the application.

IT IS FURTHER ORDERED that the Applicant shall submit to the Commission within 30 days after the consummation of the transactions for which authority is herein granted a report setting forth the actions taken and transactions consummated pursuant to this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of June, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-58, Sub 111

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Joint Application for Approval of a Sale	)	ORDER GRANTING
By Western Carolina Telephone Co., of	)	AUTHORITY TO SELL
Its Cooleemee Exchange to Yadkin Valley	)	THE COOLEEMEE
Telephone Membership Corporation	)	TELEPHONE
	)	EXCHANGE

BY THE COMMISSION: This cause comes before the Commission upon a joint petition of Western Carolina Telephone Company ("Western") and Yadkin Valley Telephone Membership Corporation ("Yadkin"), filed April 21, 1978, wherein approval of the Commission is sought for Western to sell its Cooleemee Exchange to Yadkin.

FINDINGS OF FACT

1. Western's principal office and place of business is in Weaverville, Buncombe County, North Carolina, and it is the owner of and operates telephone communication facilities and telephone exchanges in the State of North Carolina by virtue of permits, franchises and certificates of convenience and necessity granted by this Commission.

2. Yadkin is a North Carolina cooperative corporation engaged in the ownership and operation of telephone communication facilities and telephone exchanges in the State of North Carolina.

3. One of the telephone exchanges which Western owns and operates in North Carolina is its Cooleemee Exchange ("Exchange"). The boundaries of the Exchange are shown in a map entitled "Exchange Service Area Map" on file with this Commission and which is attached to the Joint Application and identified as Exhibit A.

4. Western serves approximately 1,005 subscribers within the Exchange, but the Exchange does not adjoin the remaining operating area of Western. Western's nearest customer service office is in Marion, North Carolina, approximately 90 miles from the Exchange. Due to the size of the Exchange, it has not been economically feasible for Western to keep the usual central office and outside plant installation and maintenance force within the Exchange. With the exception of one installer-repairman, the Exchange is serviced by personnel of Western who must travel at least 90 miles to the Exchange.

5. Yadkin's operating area is contiguous to that of the Exchange.

6. Western has agreed to sell and Yadkin has agreed to buy the Exchange upon the terms and conditions set forth in the agreement ("Agreement") attached to the Joint Application and identified as Exhibit B.

7. If Yadkin purchases the Exchange, it will do the following with respect to telephone service within the Exchange:

(a) Continue existing Extended Area Service with the Mocksville, North Carolina, Exchanges;

(b) Add Extended Area Service between Cooleemee and Yadkin's Advance, Davie and Ijames exchange areas in Davie County, North Carolina;

(c) Eliminate all party line service in an orderly manner and offer only one party flat rate (no zone or mileage charge) service in the Exchange area; and

(d) Tariff charges for monthly service including the Extended Area Service as aforesaid will be based on Yadkin's existing rates charged exchanges with similar local service and Extended Area Service offerings within Yadkin's operating area. The rates presently charged by Yadkin in similar exchanges within its operating area are $7.45 per month for One Party Residence and $12.25 per month for One party Business. Cooleemee's present monthly one party rates are $12.10 for residence and $30.40 for business.

8. Western and Yadkin have received appropriate authority for the purchase and sale of the Exchange in accordance with the terms and conditions of the Agreement from their respective Board of Directors, shareholders and/or members.

9. Yadkin received written approval of the purchase and sale of the Exchange in accordance with the terms of the Agreement from the Rural Electrification Administration and the North Carolina Rural Electrification Authority.

10. Yadkin has the facilities, the business experience, and the financial ability to render telephone service within the Exchange in a satisfactory manner.

11. The proposed sale has had extensive public notice through the Davie County Enterprize Record and several citizens and groups have written the Commission recommending that the sale be approved. No protests have been received.

CONCLUSIONS

From a review and study of the Petition, supporting material and other information in the Commission's files, the Commission is of the opinion and so concludes that the transaction herein proposed is:

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

(b) Compatible with the public interest;

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

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED that Western Carolina Telephone Company and Yadkin Valley Telephone Membership Corporation be and they are hereby authorized, empowered and permitted under the terms and conditions set forth in the Joint Application as follows:

1. To sell and purchase, respectively, the Exchange in accordance with the terms and conditions set forth in Exhibit B attached to the Joint Application.

2. To file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted within the period of thirty (30) days following the completion of the transactions authorized herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of May, 1978.

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

DOCKET NO. P-7, SUB 605

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of Edgecombe County Farm Bureau Requesting the North Carolina Utilities Commission to Authorize Extended Area Service Between the Exchanges of Tarboro, Rocky Mount, Pinetops, and Whitakers, Said Exchanges Being Located in Whole or in Part in Edgecombe County, North Carolina	) ORDER TO ESTABLISH EXTENDED AREA SERVICE; INVESTIGATION OF OPTIONAL NON-EAS SERVICE

HEARD IN: Edgecombe County Courthouse Courtroom, Second Floor, St. Andrews Street, Tarboro, North Carolina, on Tuesday, January 24, 1978

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Ben E. Roney and Leigh H. Hammond

APPEARANCES:

For the Petitioner:

George A. Goodwyn, Fountain & Goodwyn, P. O. Box 615, Tarboro, North Carolina 27801

Charles T. Lane, Spruill, Trotter & Lane, P. O. Box 353, Rocky Mount, North Carolina 27801

For Carolina Telephone and Telegraph Company:

William W. Aycock, Jr., Taylor, Brinson & Aycock, P. O. Box 308, Tarboro, North Carolina 27886

For the Commission Staff:

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

Appearing Individually - for Self:

R. Brooks Peters, Attorney at Law, 1012 Panola Street, Tarboro, North Carolina 27886

BY THE COMMISSION: This proceeding was instituted on October 20, 1977, by the filing of a Petition by Edgecombe County Farm Bureau, requesting the North Carolina Utilities Commission to cause extended area telephone service (EAS) to be implemented as soon as possible between the exchanges of Tarboro, Rocky Mount, Pinetops, and Whitakers, so that toll free telephone service would be available between all areas and within all areas of Edgecombe County, North Carolina. The Petition had attached exhibits containing letters and resolutions supporting or joining in said Petition or supporting said EAS from 82 governmental subdivisions and community, civic, and religious organizations in the county, including governing boards and all major agencies of the county, cities, and towns, 35 resolutions or letters from business and industrial firms and individual petitions in support of the main Petition signed by approximately 5,000 individuals. Copies of the cover sheets listing the 82 governmental or civic organizations and 35 businesses from the exhibits attached to the Petition are appended to this Order as Appendix A.

While this formal docket was instituted on October 20, 1977, the Commission had received extensive interest in

extended area telephone service in Edgecombe County dating back to April 1973 when the Commission received a request from numerous civic and business organizations in the county requesting extended area telephone service. Following prolonged delays for studies of toll calling patterns within the county and the intervention of a general rate case for Carolina Telephone and Telegraph Company in 1975, the Commission received a toll calling study from Carolina Telephone and Telegraph Company for Edgecombe County in July 1977 showing the toll calling patterns within the county.

On November 18, 1977, the Commission entered its Order setting the Petition of the Farm Bureau for public hearing in Tarboro, North Carolina, on January 24, 1978, and ordering public notice of the hearing and the proposed rates for the extended area telephone service in the exchanges to be published in newspapers having general circulation in the county.

The public hearing was held as scheduled on January 24, 1978, in the Superior Courtroom in the Edgecombe Courthouse, Tarboro, North Carolina, and reflected widespread interest on the part of the public by attendance filling the courtroom, with standees on all sides and in the hall.

The Petitioner Farm Bureau offered the testimony of 50 witnesses in support of the Petition, including the testimony of public officials and elected representatives of numerous governmental agencies and political subdivisions as shown below in the capacity of their office or as official representatives of said governmental agencies and political subdivisions and community, civic, and religious organizations and business and industrial firms.

Carolina Telephone and Telegraph Company offered two witnesses in support of the Company's stated position that it was neutral as to the merits of extended area telephone service but that it supported a vote of the subscribers on the issue.

Six individual telephone subscribers, including one telephone company employee and an attorney representing himself, testified as public witnesses primarily in support of a vote by the subscribers on extended area telephone service, with two of said subscribers being in favor of EAS, two against EAS, and two expressing no position on the merits of EAS.

The Elm City Ruritan Club appeared independently through a witness in support of extended area telephone service.

The Company offered for the Commission's files certain responses which it received to a letter it mailed to its subscribers on January 12, 1978, as will be more fully described hereinafter, consisting of 1,072 letters reported as being 11.85% in favor of EAS, 87.78% opposed, and .3% undecided. The Company had received 422 telephone calls in

response to its letter of January 12, 1978, of which 76% were opposed to EAS, 21% in favor, and 2% undecided. The Company further offered petitions which it stated it had received in response to said letter containing 1,020 names against EAS and four names for EAS.

No governmental agency, political subdivision, or civic, community, or religious organizations in Edgecombe County or elsewhere appeared to present any resolution opposed to the Petition for extended area telephone service.

By letter dated January 25, 1978, the Town of Tarboro filed a copy of a resolution, adopted by the Town Council on January 23, 1978, that the EAS issue should be submitted to a vote of the affected subscribers.

At the conclusion of each party's direct presentation, the Commission accepted a tender by persons present in the courtroom in support of the respective positions as follows: 163 in support of the Petition for extended area telephone service and 21 against extended area telephone service. The roster of persons included the following witnesses presented by the parties or appearing on their own behalf:

WITNESSES TESTIFYING FOR THE FARM BUREAU PETITION FOR EAS

(a) COUNTY, STATE

Chairman, Edgecombe County Board of Commissioners
Member, Edgecombe County Commissioners
Two members of N. C. House of Representatives, Edgecombe County
Sheriff, Edgecombe County
Retired Clerk of Superior Court
County Extension Chairman, N. C. Agricultural Extension Service
Former County Extension Chairman
Sgt. of Arms, N. C. House of Representatives
Former Home Economics Agent
Representative, ASCS State Committee
Executive Vice President, Tarboro-Edgecombe County Development

(b) CITY

Mayor and Mayor Pro Tem, Rocky Mount
Member of City Council, Rocky Mount
Mayor, Macclesfield
Chairman, Tarboro Planning Board and Zoning Commission

(c) SCHOOL

Superintendent, Edgecombe County School System
Principal, Living Hope Primary School, Macclesfield
Principal, North Edgecombe High School
Special Reading Supervisor, Edgecombe County Schools

Basketball Coach
Two school teachers

(d) MEDICAL AND SOCIAL SERVICES

Director, Edgecombe County Health Department
President, Tarboro Clinic
Administrative Officer, Edgecombe-Nash Mental Health Center
Registered Nurse, Home Health Supervisor, Edgecombe County Health Department
Director, Edgecombe County Department of Social Services

(e) COMMUNITY, BUSINESS

President, Edgecombe County Farm Bureau
President, Rocky Mount Chamber of Commerce
Chairman of Board and President, Planters National Bank
Partner, Peoples Warehouse, Tarboro
Executive Vice President, Peoples Bank and Trust Company
Vice President, Planters Bank and Trust Company
President and General Manager, Coastal Plains Broadcasting Co.
Owner, Tractor Company, Rocky Mount
President, Charter Associates, and spokesman for Rocky Mount Board of Realtors
Member of Board of Directors, Rocky Mount Chamber of Commerce
Pinetops, Insurance and Real Estate
Tarboro, Civic Worker
Bethel, Farmer
Tarboro, Farmer and Preacher
Tarboro, Farmer
Rocky Mount, Tax Lister and Farmer
Whitakers, Farmer and operator of two businesses
President and General Manager, Farm Equipment and Truck Franchise, Rocky Mount
Vice President and General Manager, Tri-Chemical Company, Tarboro
Homemaker, Tarboro

NON-FARM BUREAU WITNESSES-SUPPORT VOTE OF SUBSCRIBERS

Retired, Member of Senior Citizens Club of Robinson Center
Employee, CT&T
Attorney
Housewife, Tarboro
Pastor, Trinity Baptist Church, Tarboro
Tarboro Subscriber

CAROLINA TELEPHONE AND TELEGRAPH COMPANY WITNESSES-NEUTRAL

District Commercial Manager, CT&T, Rocky Mount
Vice President, CT&T, Tarboro

The above spokesmen for Edgecombe County, the Sheriff and County Commissioners, the officials of the various health service organizations serving the public, and the officials of the school systems serving Edgecombe County, together with the representatives of the community organizations and civic organizations, as shown above, all uniformly presented a request of the overwhelming preponderance of the responsible leadership of the county in requesting EAS in order to provide better services in law enforcement, public education, and medical health facilities which are essential to all of the people of the county. They demonstrated a unified public position supporting the need for an adequate public telephone communications service throughout the county.

The combined witnesses supporting the Petition demonstrated many and varied specific instances wherein the long distance toll charges now in existence between said four exchanges substantially inhibit telephone communications between the various parts of the county through reluctance of subscribers to place toll calls. Instances were related in which schisms and differences have been established within communities based upon the boundary lines between the exchanges through the added cost of toll calls across the boundary lines. Instances were related by health officials where patients and members of the public defer and postpone needed communications to doctors and health services because of the toll charges when adequate and reasonable telephone service would aid in preventing greater health problems and safety problems. Teachers and parents demonstrated the need for communication between schools and parents and the students' homes. As an example, 60% of the students of North Edgecombe High School would have to place a long distance call to call home in an emergency or for ordinary needs of communications. Instances were related where eight Magistrates of Edgecombe County are inhibited by toll calls from reasonable and necessary access to the county officials in the administration of justice in Edgecombe County. Instances were described in which doctors have required persons living alone to have a telephone or go to a nursing home because of health problems. Instances were related where the low income citizens now without telephones, even under the present rates, were reluctant to borrow neighbors' telephones and merchants' telephones because of the toll charge incurred on their calls. Over two-thirds of the county population would have to place a long distance call to reach the county seat and the various governmental services and functions provided from the county seat.

Estimates were made to a meeting of County commissioners that extended area service would result in 30 times the

number of calls being placed between the four exchanges as are now placed under the long distance charge system and, thus, the citizens of Edgecombe County are being inhibited from making 29 out of every 30 calls that they would like to make because of the toll charge on the calls.

Based upon the evidence of record and the public hearing held as above recited, the Commission makes the following

FINDINGS OF FACT

1. That Carolina Telephone and Telegraph Company (CT&T) holds a franchise issued by the Utilities Commission pursuant to the North Carolina Public Utilities Act to provide telephone and other telecommunications service throughout Edgecombe County, North Carolina, and is obligated by said Act and said franchise to provide adequate, just, and reasonable service to all residents, occupants, citizens, and others needing telephone service in Edgecombe County at just and reasonable rates.

2. That CT&T has provided such telephone service in Edgecombe County by establishing four separate telephone exchanges at four different towns in Edgecombe County, to wit, Tarboro, Rocky Mount, Pinetops, and Whitakers, and has divided Edgecombe County by exchange boundaries into four separate areas. Under the present rates and tariff rules of CT&T, the telephone subscribers within each of said four boundary districts can call only those subscribers within their own district at the regular monthly telephone subscriber rates and any call placed from one of said exchange areas to another of said exchange areas must be made under long distance toll charge tariffs, with the sole exception of calls between Rocky Mount and Whitakers where extended area service was established several years ago.

3. That adequate telephone and telecommunications service is essential to the community of interest within Edgecombe County and to the public schools and health facilities and in the protection of the public through efficient law enforcement in Edgecombe County and toll free use of telephone service throughout the county is in the public interest.

4. That the present four separate exchanges in Edgecombe County with toll charges for calls between the exchanges over and above the regular monthly subscription rates impose undue limitations upon the use of and administration of the health facilities, the schools, and the law enforcement facilities by the citizens and residents of Edgecombe County and constitute an unreasonable rate limitation and an unreasonable service limitation on the telephone service in Edgecombe County based upon the special circumstances of the community of interest between said exchanges in Edgecombe County.

5. That the public interest requires that such four exchanges in Edgecombe County be linked together for toll free extended area service between said exchanges at the regular monthly subscription rates computed under the extended area service rate formula which CT&T has on file with the Commission or such other special countywide service rate formula as may be in effect at the time such toll free service might be implemented pursuant to this Order.

6. That CT&T has pending before the Commission an application for a general rate increase and the effect of any provision of countywide toll free calling in Edgecombe County can be considered upon its general rate structure and its tariff rules and regulations and CT&T can be provided such rate of return upon its overall investment as is required by law in said general rate case and CT&T's overall revenue requirements will not be adversely affected by any toll free county calling service in Edgecombe County, inasmuch as the extended area service will not be or cannot be completely implemented within the period of time provided by law for the decision of such general rate case.

7. That the Commission takes official notice of its records showing that CT&T is a party to proceedings in Docket No. P-100, Sub 45, now pending before the Commission for an increase in toll rates and charges throughout North Carolina, including increases between said exchanges in Edgecombe County. To the extent that said increases are allowed, the use of telephone service in Edgecombe County will be further inhibited by said increases in toll rates over and above those toll charges now in effect and said toll increases will further aggravate and exacerbate the adverse effect of the present four boundaries limiting toll free service in Edgecombe County and requiring long distance calls between said boundaries. The pending toll case seeks to increase the present charge for a three-minute person-to-person call from Rocky Mount to Pinetops from 95¢ to $1.30; from Rocky Mount to Tarboro from 95¢ to $1.30; from Whitakers to Pinetops from $1.20 to $1.55; from Tarboro to Whitakers from $1.15 to $1.50; and from Tarboro to Pinetops from 80¢ to $1.10, with increases averaging in excess of 30% over the present rates between said exchanges.

CONCLUSIONS

The Commission concludes from all of the evidence and from the Findings of Fact based thereon that the public interest requires that toll free calling be established between the four exchanges in Edgecombe County in order to maintain adequate communications service required in providing for the health, the schools, and law enforcement in Edgecombe County.

The doctors, hospitals, and clinics in Edgecombe County have testified as to the need for toll free calling to maintain adequate health standards in Edgecombe County.

The school officials have testified to the need to maintain essential communications between the schools and the homes of students and employees and between the homes of students in order to provide high quality school administration and high educational standards.

The Sheriff and the former Clerk of Superior Court have testified to the need for toll free calling in the administration of justice, in the protection of the citizens of Edgecombe County, and in the enforcement of law and order in Edgecombe County.

In addition to the above essential public services in Edgecombe County which need extended area service for adequate telecommunications service, the cross section of governmental leaders, community leaders, and agricultural and religious leaders has demonstrated the need for the overall community good to maintain good telecommunications service and the elimination of toll charges between the four exchanges. Based upon the overwhelming need for extended area service demonstrated by the unanimous support of all the elected officials of Edgecombe County who appeared at the public hearing, the Commission concludes that the public hearing has demonstrated beyond question the need for the extended area service in Edgecombe County.

An example of the effect of these area boundaries is the Old Sparta community which is divided by the boundary between the Tarboro and Pinetops exchanges. One-half of Old Sparta is in the Tarboro exchange and one-half is in the Pinetops exchange with a long distance toll charge for any use of the telephone between neighbors within the same community. Neighbors are reduced to confining most of their social activities to those subscribers living on their side of the boundary because it cost $.80 to call a neighbor on the other side (person-to-person daytime rate, first three minutes, with increase on file to $1.10). The Commission concludes that this is not adequate telephone service and that these barriers must be eliminated to remove the adverse effects of the present boundary system.

The Commission has reviewed the communication from CT&T to its subscribers dated January 12, 1978, and concludes that it would be very difficult, if not impossible under the circumstances, to secure impartial or objective consideration of EAS by many of the telephone subscribers in Edgecombe County. CT&T has its home office in Tarboro and its main district office in Rocky Mount, and its vice president testified at the hearing that the Company was not making as good a rate of return on EAS service as it was on its other business. The letter sets out the increased EAS rates filed in the Company's rate filing now pending before the Commission which has not been approved. The letter advised customers how to attend the hearing or write the Company regarding their position on said rates and suggested in said communication that many subscribers cannot pay EAS rates and would be paying extra rates when they do not make

long distance calls between the exchanges. The subscribers were not advised in said letter of the proposed 30% increase in the toll charges between said exchanges now pending before the Commission, and the subscribers have been presented only with the chart showing a large EAS surcharge at Pinetops and Tarboro compared to much smaller increases for Rocky Mount and Whitakers without any disclosure that said surcharge would apply based upon a rate formula establishing said EAS rates to bring all four exchanges up to the same group 12 monthly rates with a mileage charge factor added in the $8.90 a month to $9.60 a month range for one-party residential service.

It is true that customers can make station-to-station calls at rates substantially cheaper than person-to-person, but there is testimony in this case that has established the current view of a station-to-station call to try to reach specific persons as a form of Russian roulette, to incur reduced but often wasted charges in the hope of reaching a person who you are gambling may be available to the telephone.

Many of the witnesses at the public hearing who had by letter supported a submission of the EAS question to the subscribers testified that they understood that was the only way to secure extended area service and did not know that the Commission could order extended area service upon its own studies or upon a public hearing and amended their letters at the hearing to request the action be decided by the Commission.

Businessmen and employers testified as to the need for EAS so that their customers and employees could call them without a toll charge and so that they could call their customers and employees as needed.

The Commission takes official notice that new developments are constantly being made in central office equipment and in trunk cables so that it is possible for new methods to be developed establishing extended area service between these exchanges. It is estimated that it takes two years for such large conversions to extended area service during which time CT&T can work to effect economies of scale in this large conversion with the new developments in the art of telephony.

The Commission calls upon the Public Staff to assist it and upon CT&T to cooperate in an investigation of optional methods of serving those subscribers in Edgecombe County who do not want full service toll free calling between said exchanges by providing some method of limited scope single exchange non-EAS service or lifeline limited calling service. By the time the extended area service is implemented in approximately two years, the Commission, Public Staff, and the telephone company are enjoined and encouraged to have available for those customers who do not

desire the regular toll free EAS calling service such an optional limited scope subscription rate.

The community of interest in good telephone service of all of Edgecombe County must prevail over the desires of some who do not make frequent calls to the other areas of the county. Many of the objections to EAS come from customers in the Tarboro exchange area who can presently call the Edgecombe County seat toll free and, thus, do not desire to support the network for other citizens of the county to have the same service. These subscribers will still receive large benefits from the extended area service from the better efficiency of their county government and its community health and schools and law enforcement and from a total community made better by good telecommunications service. They will also have the right to call three new areas toll free and, thus, open new associations that have been stifled by long distance toll inhibitions and will no longer be inhibited from taking part in community and county development. The Commission will investigate new tariff provisions for these customers to retain the right to limited scope calling at the old rates, providing a reasonable means for such service can be established.

The Commission has on previous occasions required that extended area service be provided where it finds that the community of interest between the exchanges involved is so developed and the need for such EAS service is so demonstrated that it can be determined in a public hearing. The elected officials of Edgecombe County and the public in their support of the Petition in this case have so demonstrated a community of interest and a need for extended area service within the county. The Commission has informally utilized a postal vote on other occasions to seek an indication of the support in a community for EAS when it could not make a determination from the available facts. It is not applicable in the Edgecombe County situation. For the Commission not to order that EAS be provided after the evidence at the public hearing in this case would be inconsistent with its obligation to require adequate service.

Long distance toll charges can constitute a wedge between the homogeneous nature of the total community by the inhibition built into the high toll charges and the pending application to further increase these charges 30%. The medical, social, and economic cost of calls not made can create serious problems. The Commission has already tarried too long in providing this service first requested in 1973.

The democratic process includes the recognition of citizens to speak through their elected leaders and in public hearings where fair opportunity is given to air all views. The public hearing in this case has spoken loud and clear that the overall community of Edgecombe County wants and needs extended area service. The elected leaders of the

county and the public have spoken to show the public need for extended area service.

The Commission concludes that the toll calling system places an unreasonable burden upon the health, education, and law enforcement services to the public and on the development of Edgecombe County as an integral community and, therefore, that EAS should no longer be withheld from the county.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Carolina Telephone and Telegraph Company is hereby ordered and directed to establish extended area service for toll free calling between the exchanges of Rocky Mount, Tarboro, Whitakers, and Pinetops in Edgecombe County, North Carolina, at the earliest practicable time for completion and implementation for such service.

2. That CT&T shall file with the Commission within 30 days after the issuance of this Order a time schedule for implementation of said EAS between Rocky Mount, Tarboro, Pinetops, and Whitakers at the earliest practical date.

3. That the Public Staff is requested and CT&T is ordered to investigate optional methods of serving any subscribers in Edgecombe County who do not want extended area service by some method of limited scope single exchange non-EAS for the exchange boundary within which they are located, at rates based upon the calling scope of said exchange, and to report to the Commission within 12 months following the issuance of this Order as to the results of said investigation.

4. That the rates which CT&T shall charge for the extended area service between said four exchanges as provided in paragraph 1. hereof be fixed in accordance with rates and tariffs approved by the Commission at the time of the implementation of said extended area service under the best and most modern methods of installation of said service in Edgecombe County, considering that said service is essential and in the public interest in the establishment of adequate standards for quality of service under the circumstances in said county.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of March, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A

EXTENDED AREA SERVICE

Rocky Mount

City of Rocky Mount, Frederick E. Turnage, Mayor
Rocky Mount City Schools, Ben F. Currin, Superintendent
Rocky Mount City Board of Education, Ben F. Currin, Secretary
Allen Barbee, House of Representatives, Spring Hope, N. C.
James E. Exrall, Jr., House of Representatives, Rocky Mount
Wm. E. Hovell, Region L., Council of Governments
Leon A. Dunn, Jr., Chairman & President, Guardian Care, Rocky Mount
Larry H. Dempsey, DDS MS, Vice President, NEH Dental Society (Nash, Edgecombe, Halifax)
Opportunities Industrialization Center, Inc.
Opportunities Industrialization Center, Inc., Stanley Green, Chairman of the Board
Thomas L. Walker, Pastor of Ebenezer Baptist Church
Citizens Savings & Loan Association, Robert F. Thompson, President
Planters National Bank & Trust, James B. Powers, Chairman & President
United Federal Savings & Loan, Henry Gregory, Chairman of the Board
Carolina Production Credit Association, Thomas D. Eatman, President
Guy E. Barnes, Peoples Warehouse
Home Savings & Loan Association, Theo H. Pitt, Jr., President
The Rocky Mount Chamber of Commerce
Mr. & Mrs. J. R. Johnson
Michael J. Anderson - Thorp and Anderson, Attorneys at Law
Senator Vernon E. White - Sixth District
Senator Julian R. Allsbrook - Sixth District
Senator Dallas L. Alford, Jr. - Seventh District

Tarboro

Town of Tarboro
Edgecombe County Board of Education, Lee R. Hall
Tarboro City Board of Education, E. Baxter Watkins, Chairman
Edgecombe Technical Institute, Charles B. McIntyre, President
Tarboro City Schools, Philip L. Beaman, Superintendent
County Extension Chairman, Joe L. Perry
Alcoholic Beverage Control Board, M. E. Webb, Chief Law Enforcement Officer
Tarboro Edgecombe Development Corporation, Peyton Beery, President
Edgecombe Martin County Electric Membership Corp., Leslie Rucker, Vice President
Edgecombe Martin County Electric Membership Corp., Alice Wilson, President, Women's Committee

Department of Social Services, Jessie E. Worthington, Chairman of the Board
Edgecombe County Department of Social Services, Claudia H. Edwards, Director
Annie Lee Howell, American Red Cross
Phil Ellis, Sheriff of Edgecombe County
Mrs. V. H. Creech, Jr., Chairman of Edgecombe County Bicentennial Commission
Mary Jo P. Godwin, Director of Edgecombe County Memorial Library
George G. Cherry, Jr., Secretary of Edgecombe County Firemen's Association
Dr. James S. Bramham, Optometrist, Tarboro
Dale Newton, M.D., Tarboro Clinic
Hugh G. Young, MPH, Edgecombe County Health Director
F. W. Avery, M.D., Laboratory Director, Edgecombe General Hospital
Lawrence M. Cutchin, M.D., President & Medical Director, Tarboro Clinic
E. B. Coggin, Administrator of Guardian Care Nursing Home, Tarboro
Jay Carl Jones, III, Director of Administration of Health Education Foundation
Ms. Virginia Tate, Director of Nursing Activities, Health Education Foundation
Helen Cleveland, Area Director, Edgecombe-Nash Mental Health Center
Tarboro Chamber of Commerce, S. Clark Jenkins, President
George L. Proctor, Owner of Clark's Tobacco Warehouse
James H. Long, Vice President, Long Manufacturing Co.
W. Eugene Simmons, Tarboro, Partner-Peoples Warehouse in Rocky Mount
Edgecombe Credit Union Board of Directors, Clifton Bullock, President
Burlington Sportswear, Tarboro, David M. Pittman, Plant Manager
Carolina Enterprises, Inc., James F. King, Jr., Vice President
Runneymede Mills, Inc., Yancey Elliott, Jr., Sec-Treas.
Formica Corporation, F. T. Costello, Plant Manager
Glenoit Mills, Inc., John P. Wolf, Plant Manager
East Tarboro Citizens League, Dr. M. A. Ray, President
Loyal Order of the Moose, C. W. Derby, Governor
Tarboro Women of the Moose, Nancy E. Derby, Senior Regent
Tarboro Lions Club, Tom Lancaster, President
Tarboro Woman's Club, Mary K. Graham, President
Tarboro Business & Professional Women's Club, Inc., Executive Board
Pilot Club of Tarboro, Frances S. Davenport, Secretary
Rotary Club of Tarboro, D. David Phillips, Secretary
Edgecombe County Farm Bureau, R. R. Brake, Jr., President
Eugenia P. VanLandingham, Retired Home Economics Extension Agent
Vernon L. Pollard, Tarboro
Mrs. Jane Jernigan, Tarboro
Mary E. Brewer, Tarboro
Evelyn Shaw Wilson

Mary P. Harrison
Dorothy Webb
Gladys Shelton Pitt
Ada P. Williams

WESTERN AREA OF EDGECOMBE

West Edgecombe Fire Department, Paul L. Harrell, President
West Edgecombe School, Cecil E. Long, Principal
West Edgecombe Ruritan Club, Donalf Russ, Secretary
Proctors Chapel Baptist Church, Isabel L. Harper, Church Clerk
West Edgecombe Motor Sales, H. G. Quincy
Margaret B. Quincy, Rt. 3, Tarboro
Ruth D. Cherry, Rt. 2, Rocky Mount
William H. Brake, Farmer & Chairman of the Edgecombe County Board of Education
William H. Stanley, President, Peoples Bank and Trust Company
William L. Thorpe, Attorney at Law
Edgecombe County Board of Elections, George A. Goodwyn, Chairman
Tarboro City Council, Dave Taylor, City Manager

SOUTHERN AREA OF EDGECOMBE COUNTY

Town of Pinetops, W. E. Phillips, Jr., Mayor
South Edgecombe School, Coye Lewis, Principal
G. W. Carver Elementary School, Thomas Bogue, Principal
South Edgecombe Rural Fire Department, A. J. Drake, Chief
Pinetops Police Department, Milton Carlton, Chief
Pinetops Fire Department, Robert E. Varnell, Chief
Pinetops Rescue Squad, Steve Burress, Captain
Boxmaker, Division of Rexham Corp., W. Allen Reed, Plant Manager
Hickory Springs Manufacturing Co., Donnie Skinner, Plant Manager
Cobb Kittrell & Coker Agency, C. Earl Coker
Gaco Manufacturing, Inc., John A. Gaither, President
J. V. Cobb, Jr., Pinetops
Norfleet L. Sugg, Vice President of Planters National Bank
J. Phil Carlton, Secretary, Crime Control & Public Safety
Paul Deal, Pinetops

Town of Macclesfield, R. L. Corbett, Jr., Mayor Pro Tem
Living Hope Elementary School, Bobby G. Spencer, Principal
Dr. J. Edwin Drew, Macclesfield
First Christian Church, James W. Johnson, Minister
Macclesfield Lions Club, Bill Johnson, President
Macclesfield Lions Club, Ralph W. Winstead, Secretary-Treasurer
Macclesfield Woman's Club, Mrs. Ralph Winstead, President
Old Sparta Community Development, Mrs. Murray Edwards, President, Mrs. Ollen Johnson, Secretary
Southern Bank & Trust Co., Macclesfield, N. Wayne Allen, Cashier
Kountry Kitchen, Macclesfield, W. B. Felton

J. E. Eagles, & Co., Crisp, Joe E. Eagles
Macclesfield Red & White Grocery-Edward E. Rose, Charles E. Barnes
Allen Dragline Service, Dan Allen
J. T. Winstead & Co., Mr. and Mrs. Ralph Winstead, Macclesfield
Etheridge Sales & Service, Paul Etheridge, Macclesfield

NORTHERN AREA OF EDGECOMBE COUNTY

Town of Whitakers
Felix J. Morton, Principal, Willow Grove Elementary School
Phillips Elementary School, David E. Smoot, Principal
North Edgecombe School, Gregory T. Todd, Principal
Coker Wimberly Elementary School, James H. Tyson, Principal
Leggett Ruritan Club, Thomas B. Anderson, President
Leggett Community Organization, Anthony Pender, President
Leggett Homemakers, Bessie Pender, President
Henry M. Milgrom, Inc., Battleboro
Nina W. Fountain, Rt. 2, Tarboro
Susie Pender, Rt. 2, Tarboro
S. T. Pender, Rt. 2, Tarboro
Bessie Pender, Rt. 2, Tarboro
Ralph Brake, Jr., Rt. 2, Battleboro
Frank P. Phlysh
Frank D. Fisher, Jr., Battleboro
Bennie W. Brake, Rt. 2, Battleboro
C. J. Wooten, Jr.
R. H. Marriott, Jr., Rt. 2, Battleboro
Bruce Flye, Rt. 2, Battleboro
A. T. Thompson, Jr., Rt. 1, Whitakers
Robert Hendricks, Rt. 2, Battleboro

EASTERN AREA OF EDGECOMBE COUNTY

Town of Conetoe, James B. Bryant, Mayor
Town of Speed, Mayor Eben Jones
Bryants Garage, Conetoe, J. B. Bryant
Webb Equipment Co., Rt. 1, Tarboro, E. Brooks Webb, Mgr.
Conetoe Supply Co., Wilbur Harris, President
Tom Togs, Inc., Hwy. 64 East, Tom Glennon, President
AG Products Corp., Conetoe, N. W. Worsley, General Manager
Conetoe Ruritan Club, N. W. Worsley, Secretary
Speed Homemakers Club, Mrs. Lucy Gray
Mayo Chapel Church, Isiah Pippen, Jr., Chairman of Deacons
Whites Chapel Church, Rev. J. E. James, Pastor
Batts Chapel Church, Marvin Gray
Wilson Farms, J. F. Wilson, Jr., Jimmie Worsley, Farmer in Conetoe Community
Charles H. Lockhart, Retired Extension Agent and Farmer
Frances S. Lockhart, wife of Charles H. Lockhart
Charles Lockhart, Jr., Farmer
Susan K. Lockhart, wife of Charles Lockhart, Jr.

DOCKET NO. P-10, SUB 378

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of the Need for Extended Area Service Between the Exchanges of Granite Falls and Lenoir Which Provide Telephone Service to the Majority of Caldwell County, North Carolina	)	FINAL ORDER ESTABLISHING EXTENDED AREA SERVICE

HEARD IN: South Caldwell High School, Granite Falls, North Carolina, on Thursday, September 28 and Friday, September 29, 1978

BEFORE: Commissioner Leigh H. Hammond, Presiding; Commissioners Sarah Lindsay Tate and Robert Fischbach

APPEARANCES:

For the Respondents:

James M. Kimzey, Kimzey, Smith & McMillan, Attorneys at Law, 506 Wachovia Bank Building, P.O. Box 150, Raleigh, North Carolina 27602
For: Central Telephone Company

R. Frost Branon, Jr., General Attorney, Legal Department, Southern Bell Telephone & Telegraph Company, P.O. Box 30188, Charlotte, North Carolina
For: Southern Bell Telephone & Telegraph Company

For the Public Staff:

Jerry B. Fruitt, Chief Counsel, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Stephen G. Kozey, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding was instituted as a result of the Commission receiving a Petition on May 22, 1978, containing 967 signatures requesting that the Commission authorize the implementation of extended area service (EAS) between the Central Telephone Company's (Central) Granite Falls exchange and the Southern Bell Telephone and Telegraph Company's (Southern Bell) Lenoir exchange so that toll free telephone service would be made available throughout the preponderance of Caldwell County. The petition's signers were from both service areas at issue

in the matter. In addition, the Commission received resolutions in favor of the extension of toll free calling from the Caldwell County Board of Education, the town of Granite Falls, the town of Rhodhiss, the Caldwell Community College and Technical Institute, the Lenoir-Caldwell Chamber of Commerce, and the Hudson Board of Town Commissioners.

Over the last several years, the Commission has received requests for EAS between the two exchanges. These prior requests came primarily from subscribers in the Granite Falls exchange. The more recent requests have demonstrated a community of interest between the two exchanges. Subscribers in the Lenoir exchange and officials of countywide service and development agencies expressed strong support for EAS. This broad base of support led the Commission to issue its Order of August 8, 1978, setting a public hearing at South Caldwell High School to determine as fully as possible the affected public's interest in the proposed EAS. Notice of the hearing and the proposed rates for EAS in the affected exchanges was duly published in a newspaper of general circulation in the county.

The public hearing was held at the appointed time and place. The attendance of over three hundred persons at the September 28th evening session reflected widespread community interest in the EAS. All fifty-eight public witnesses who testified during the course of the hearing spoke in favor of the proposal. The breadth of interests represented by the witnesses from both the Central and Southern Bell exchanges was impressive. Along with substantial numbers of individuals relating their personal reasons for desiring the service, elected and appointed governmental officials, as well as spokesmen for religious, educational, professional, commercial, and service organizations presented their group's reasons for favoring such a service. No public witness in the two-day hearing spoke against the proposed extended area service. In fact, during the September 28 evening session the Chairman asked all persons in the audience who did not speak to show their hands if they supported the testimony of those individuals who made statements in favor of EAS. The record reflects that all persons in attendance raised their hands and that none raised his hand in opposition to the proposition.

Southern Bell and Central each offered one witness. The Southern Bell witness, J.G. Wylie, testified that in his opinion it was not economically sound at present to provide the service based on a study of the calls made from Lenoir to Granite Falls in July of 1977. In its place the company advocated the increased use of foreign exchange (FX) service and Extended Community Calling (ECC) service. The Central witness, Thomas S. Moncho, took a neutral position as to the proposal, his company having filed cost and time of implementation data should the Commission order that EAS be provided. The Central witness also offered customer utilization of ECC service as an alternative.

At the conclusion of the September 28th session, the Commission accepted a petition in favor of the proposal signed by many of those present at the hearing who did not testify. A letter from the Clerk of the Superior Court supporting EAS was also made part of the record.

The following is a list of witnesses presenting testimony during the two days of hearing:

(a) County, State
Sheriff, Caldwell County; Saw Mill Sanitary District Employee; Member, Caldwell County Commissioners; Member, North Carolina House of Representatives, Caldwell County; Clerk of Superior Court.

(b) City
Mayor, Granite Falls; Town Manager, Granite Falls; Assistant City Manager, Lenoir, for the Lenoir City Council; Mayor, Hudson.

(c) Educational
Principal, Football Coach, Drama Teacher, and President of the Student Body, South Caldwell High School; Teacher and Band Director, Granite Falls Middle School; Principal and Vice President of the PTA, Granite Falls Elementary School; Dean and Program Director, Caldwell Community College; and Assistant Superintendant, Caldwell County Schools.

(d) Church and Professional
Lawyer, Granite Falls; Veterinarian, Lenoir; Staff Employee, Dental office, Lenoir; Former Pastor of Mt. Zion Church, on fixed income, Granite Falls; Pastor of Temple Hill Baptist Church, Granite Falls; Pastor of Dudley Shoals Church of God (Lenoir exchange).

(e) Community and Business
Member, Caldwell County Home Builders Association; Representative, Granite Savings & Loan Association; Evinrude Dealer, Granite Falls; Member, South Caldwell Boosters Club; Employee, Northwestern Bank, Granite Falls; Realtor, Hudson; Building Contractor, Granite Falls; Businessman, Hudson; Builder, Granite Falls; Businesswoman, Granite Falls; Operator of Towing Service, Hudson; Employee, Caldwell District Office of Blue Ridge Electric Membership Corporation; Employee, The Bank of Granite, Granite Falls, Hickory, Whitnel, Hudson, and Lenoir; President, Lenoir-Caldwell County Chamber of Commerce; Owner, Tom Brooks Chevrolet, Buick, Lenoir; Independent Insurance Agent, Granite Falls; Broadcaster, WKJK-AM, Lenoir; Family Business - Grocery and Concrete, Hudson; Church Activist, Hudson; Employee, Caldwell County Farm Bureau Agency, Lenoir.

In addition, individuals from Lenoir, Granite Falls, and Hudson (served by both Southern Bell and Central)

testified as to their personal reasons for supporting EAS.

(f) Southern Bell Telephone & Telegraph Company
District Staff Manager, Southern Bell, Charlotte.

(g) Central Telephone Company
General Regulatory Manager, North Carolina Division of Central Telephone Company.

The individual witnesses and the spokesmen for the agencies concerned with countywide services and development listed above constituted a preponderance of the leadership of the county. Their unanimous request for EAS reflected a desire to end artificial divisions in the area effected and to provide improved services in law enforcement, public education, and medical health facilities which are essential to all of the people of the county. They demonstrated a unified public position supporting the need for an adequate public telephone communications service throughout the county.

The witnesses supporting the Petition chronicled numerous specific instances where the long-distance toll charges now in existence between the two exchanges substantially inhibit telephone communications between the various parts of the county because of the natural reluctance of subscribers to place toll calls. The boundary line between the Southern Bell and Central exchanges was shown to separate schools from their students, students from one another, family members from one another, home from work place, patients from health care, citizens from their elected representatives, and from the services for which their tax dollars have already paid.

According to testimony of Southern Bell, over 3,643 residential subscribers out of 14,951 and 665 business subscribers out of 1,410 made toll calls from Lenoir to Granite Falls during a summer month, when families may be supposed to be absent from the county and the schools are not in regular session. Southern Bell's witness admitted that the company assumes that eight times as many calls would be made if EAS were to be implemented.

Central's most recent traffic study showed a monthly calling volume from Granite Falls to Lenoir of 5.3 calls per main station. This figure was an increase over all data shown for the previous year.

Based upon the evidence of record and the public hearing held as above recited, the Commission makes the following

FINDINGS OF FACT

1. That Central Telephone Company holds a franchise issued by the Utilities Commission pursuant to the North Carolina Public Utilities Act to provide telephone and other telecommunications service to the southern portion of Caldwell County, North Carolina, and is obligated by that Act and its franchise to provide adequate, efficient, and reasonable service to all those needing telephone service in that portion of Caldwell County at just and reasonable rates. G.S. 62-131.

2. That Central has provided telephone service in Caldwell County by establishing a telephone exchange at Granite Falls.

3. That Southern Bell holds a franchise issued by the Utilities Commission pursuant to the North Carolina Public Utilities Act to provide telephone and other telecommunications service to the northern portion of Caldwell County, North Carolina, and is obligated by that Act and its franchise to provide adequate, efficient and reasonable service to all those needing telephone service in that portion of Caldwell County at just and reasonable rates. G. S. 62-131.

4. That Southern Bell has provided telephone service in Caldwell County by establishing a telephone exchange at Lenoir.

5. Under the present rates and tariff rules of Central and Southern Bell, the telephone subscribers within the Granite Falls and Lenoir exchanges cannot call the subscribers of the other exchange at the regular monthly telephone subscriber rates. Any call placed from Central's exchange to the Lenoir exchange and vice versa must be made under long-distance toll charge tariffs, with the exception of calls placed on foreign exchange lines.

6. That adequate telephone and telecommunications service is essential to the existing community of interest within Caldwell County and to the public schools and health facilities and in the protection of the public through efficient law enforcement in Caldwell County, and toll free use of telephone service throughout the County is in the public interest.

7. That the present separation of the Granite Falls and Lenoir exchanges in Caldwell County with toll charges for calls between the exchanges over and above the regular monthly subscription rates imposes an undue limitation upon the use of and administration of the health facilities, schools, and law enforcement facilities in the County by the citizens and residents of Caldwell County and constitutes an unreasonable rate limitation and an unreasonable service limitation on the telephone service in Caldwell County based upon the special circumstances of the community of interest

between the Granite Falls and Lenoir exchanges in Caldwell County.

8. That the public interest requires that the Granite Falls and Lenoir exchanges in Caldwell County be linked together for toll free extended area service between the exchanges.

9. Central's rate shall be the regular monthly subscription rate computed under the extended area service rate formula which Central has on file with the Commission or such other special countywide service rate formula as may be in effect at the time such toll free service might be implemented pursuant to this Order.

10. Southern Bell's rate shall be the regular monthly subscription rate plus an added increase of $.30 for residential customers and $.85 for business customers as previously determined by Order of the Commission.

CONCLUSIONS

The Commission concludes from all of the evidence and from the Findings of Fact based thereon that the public interest requires that toll free calling be established between the Granite Falls and Lenoir exchanges in Caldwell County in order to maintain adequate communications service required to provide the health, educational, and law enforcement services in Caldwell County.

The Commission has on previous occasions required that EAS be provided where it finds that the community of interest between the exchanges involved is so developed and the need for EAS is so demonstrated that it can be determined in a public hearing. The elected officials of Caldwell County and the public in their support of the Petition in this case have so demonstrated a community of interest and a need for EAS within the county. The Commission has informally utilized a poll on other occasions to seek an indication of the support in a community for EAS when it could not make a determination from the available facts. Such a poll is not necessary or fitting in this situation. For the Commission not to order that EAS be provided after the evidence at the public hearing in this case would be inconsistent with its obligation to require adequate service.

In prior orders the Commission has noted its agreement with the general rule that EAS should be ordered when it is apparent that a single community of interest was subdivided by artificial telephone exchange boundaries. The Commission cannot agree with the practice of assessing the community of interest solely by measuring the average number of toll calls per main station per month between the relevant exchanges. Calling index statistics alone do not reflect the true community of interest that exists because subscribers normally suppress their calling substantially when a long-distance charge will apply. Rather, the

relevant social and economic factors presented at the hearing are much better indicators than a calling index of the strong community of interest between Granite Falls and Lenoir. When these factors are coupled with the calling index statistics, the Commission has no doubt that there is a strong existing community of interest between the two exchanges.

Public support for toll free calling within these communities was intense and wide ranging. Officials of the county service facilities supported the toll free service within the area. Senior citizens of fixed income appeared and spoke on behalf of the establishment of toll free service. Petitions with over two hundred adult signatures were presented supporting the concept of toll free service between the communities. The various city councils and the chamber of commerce involved also expressed their support for EAS. A representative of the electric cooperative serving the area said their customers would benefit from the extension of toll free service to the communities. A State legislator also appeared and testified that his constituents would benefit by the toll free service. Not one public witness of the fifty-eight testifying spoke against the extension of the service.

The existence of long-standing, artificial social, and economic boundaries created by the exchanges must not prevent the Commission from establishing more equitable and rational toll free boundaries which would encompass the entire community of interest within the area.

The Commission concludes that the current toll call system places an unreasonable burden upon the health, education, and law enforcement services to the public and on the development of Caldwell County as an integral community and, therefore, that EAS should no longer be withheld from the county.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Central and Southern Bell are hereby ordered and directed to establish EAS for mutual toll free calling between the exchanges of Granite Falls and Lenoir, in Caldwell County, North Carolina, at the earliest practicable time for completion and implementation for such service.

2. That Central and Southern Bell shall file with the Commission within sixty days after the issuance of this Order a time schedule for implementation for EAS between Granite Falls and Lenoir.

3. That the rates which Central shall charge for the extended area service shall be fixed in accordance with Central's rates and tariffs approved by the Commission at the time of the implementation of EAS.

4. That the rates which Southern Bell shall charge for the extended area service shall be fixed in accordance with Bell's rates and tariffs approved by the Commission at the time of the implementation and the cost increment of $.30 for residential service and $.85 for business customers previously set by the Commission in this docket.

5. That the EAS be implemented using the most efficient and modern methods of installation in Caldwell County, considering that said service is essential and in the public interest in the establishment of adequate standards for quality of service under the circumstances in said county.

6. That Southern Bell and Central notify their subscribers in the affected exchanges by a bill insert (Attachment A to this Order) that the Commission has ordered the companies to implement extended area service between Granite Falls and Lenoir.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of December, 1978.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sandra J. Webster, Chief Clerk

ATTACHMENT A

DOCKET NO. P-10, SUB 378

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of the Need for Extended Area Service Between the Exchanges of Granite Falls and Lenoir Which Provide Telephone Service to the Majority of Caldwell County, North Carolina	NOTICE OF IMPLEMENTATION OF EXTENDED AREA SERVICE

By Order of the Commission in this matter dated December 15th, 1978, the Central Telephone Company (Central) and the Southern Bell Telephone and Telegraph Company (Southern Bell) have been directed to implement extended area service between Central's Granite Falls exchange and Southern Bell's Lenoir exchange. This service will result in mutual toll free calling between the two exchanges. The regular monthly bill for customers will increase by the amounts listed below:

	Residence			Business		
	1-Party	2-Party	4-Party	1-Party	2-Party	4-Party
Granite Falls	$.50	$.50	$.50	$1.20	$1.20	$1.20
Lenoir	.30	.30	-	.85	.85	-

Rotary line, key trunk, and PBX trunk rate increases will be greater than the above since they are multiples of the business one-party rate. The technical improvements required to implement the service may take eighteen to twenty-four months to complete. As a result of that delay there may be some variance in the current estimated increases listed above.

ISSUED BY ORDER OF THE COMMISSION.

This 15th day of December, 1978.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sandra J. Webster, Chief Clerk

DOCKET NO. W-365, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	) RECOMMENDED
Application by Bailey Utilities, Inc.,	) INTERIM ORDER
5827 North Boulevard, Raleigh, North	) GRANTING PARTIAL
Carolina, for Authority to Increase	) INCREASE IN RATES
Rates for Water Utility Service in	) AND DIRECTING
North Carolina	) IMPROVEMENTS

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, January 19, 1978, and on Monday, January 23, 1978

BEFORE: Commissioner Robert Fischbach

APPEARANCES:

For the Applicant:

Noel Lee Allen, Allen and Pinnix, Attorneys at Law, P. O. Drawer 1270, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Paul L. Lassiter, Assistant Staff Attorney, Public Staff, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

FISCHBACH, HEARING COMMISSIONER: On August 17, 1977, the Applicant, Bailey Utilities, Inc. (Bailey Utilities, Applicant), filed an application with the North Carolina Utilities Commission for authority to increase its rates for water utility service in its service areas in Johnston, Lee, and Wake Counties, North Carolina.

By Order issued on September 9, 1977, the Commission declared the matter a general rate case, suspended the proposed rates for up to 270 days pursuant to G.S. 62-134, scheduled the matter for public hearing in Raleigh, and required Applicant to give public notice of its application.

Public Notice of the proposed increase was published in The News and Observer on October 21 and 28, 1977, and a copy of the notice was mailed or hand delivered to each customer.

Notice of Intervention was filed by the Public Staff on September 22, 1977, and was recognized by Commission Order dated September 23, 1977.

The Commission received letters of protest and two petitions, one filed on December 19, 1977, by the property

owners in Greenbrier Estates and the other on January 9, 1978, by the residents of Willow Creek Subdivision.

The hearing was held at the time and place specified in the Commission's Order of September 9, 1977.

Nineteen public witnesses testified at the hearing representing Greenbrier Estates, Country Squire, Willow Creek, and Ravenwood subdivisions. The record shows that approximately 10 persons were in the hearing room representing Willow Creek; 12 persons were from Greenbrier Estates; and approximately all of the 35 families now living in Ravenwood were represented. The public witnesses who testified were opposed to the rate increase mainly due to the poor service they receive from Applicant but also feel that the proposed increase is too much. They further testified on specific problems they have been experiencing with their water service.

Thomas L. Bailey, President and major stockholder of Bailey Utilities, Inc., gave testimony to justify the proposed rate increase. He further testified on some of the problems and what he has done and will do in the future to remedy them. Felix Hill Allen, CPA, gave testimony on behalf of the Applicant and stated that he has prepared Applicant's North Carolina Utilities Commission Annual Report and tax returns since Bailey Utilities' inception.

The Public Staff offered the testimony of Jana L. Hemric, Public Staff Accountant, and Harold Aiken, Engineer, Public Staff Water Division, testifying on the original cost net investment, revenues and expenses, and customer billing and service deficiencies of the Applicant.

Based on information in the application, testimony and exhibits offered at the hearing, and the Commission's files, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Bailey Utilities, Inc., has been granted Certificates of Public Convenience and Necessity by the North Carolina Utilities Commission to provide water utility service in Wake, Johnston, and Lee counties in the following subdivisions: Greenbrier Estates, Country Squire, Paceville, Duchess Downs, Oak Ridge, Willow Creek, Rolling Acres, Friendship Village, and Ravenwood.

2. That the Applicant's investment in utility plant in service is $317,635.

3. That to the investment in utility plant the cash working capital of $3,779 is added to produce a total investment of $321,414.

4. That the deduction of accumulated depreciation and amortization of $62,808 and the deduction of contributions

in aid of construction of $124,269 yield an original cost net investment of $134,337.

5. That the Applicant's revenues under its present rates for the test period were $97,614 (annualized).

6. That the Applicant's reasonable operating expenses, including interest of $5,043, during the test period were $50,268 (annualized).

7. That, under the Applicant's present rates, the test-period return on investment was 1.78% and the operating ratio was 105.57%.

8. That the Applicant would have collected $97,404 (annualized) in revenues under its proposed rates.

9. That, had the Applicant's proposed rates been in effect during the test period, the Applicant's total operating expenses would have been $63,805 (annualized) and interest, $5,043.

10. That, under the Applicant's proposed rates, the return on investment would be 28.76% and the operating ratio would be 65.51%.

11. That the attached Schedule of Rates, shown as Appendix A, would produce $60,381 in annual revenues and $53,160 in related expenses, based on test-period data, generating an operating ratio of 88.04% and a return on investment of 9.13% which would be fair and reasonable in this case if the Applicant were providing adequate service.

12. That the water service presently provided by Bailey Utilities to Country Squire, Duchess Downs, Oak Ridge, Rolling Acres, and Friendship Village subdivisions is adequate although some problems do exist in Country Squire subdivision that need remedial action.

13. That the water service presently provided by Bailey Utilities to Greenbrier, Ravenwood, Willow Creek, and Paceville subdivisions is substandard and inadequate.

14. That the Applicant is not currently maintaining a general ledger in accordance with the Uniform System of Accounts for Class C water utilities as prescribed by the Commission.

15. That on March 15, 1978, Commissioner Fischbach, consistent with G.S. 62-70, convened a conference with attorneys for the Applicant and the Public Staff in order to reach an agreement for an interim procedure which would allow rates to become effective immediately on condition that these rates be used to improve upon the inadequate service described in Finding of Fact No. 13.

16. Attorneys for the Applicant and the Public Staff have agreed through Stipulations filed with the Chief Clerk on March 24, 1978, to waive their right to Exceptions to an Interim Order which would grant rates to become effective immediately and to require Applicant to maintain an escrow account.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The evidence with respect to this Finding of Fact is contained within the official files and records of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2-10

The evidence supporting these Findings of Fact is found in the testimony and exhibits of Public Staff witness Hemric (Accountant) which was essentially uncontroverted with respect to these items.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The evidence for this Finding of Fact is based on data from Public Staff witness Hemric's Exhibit 1, Schedule 3-3.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12-16

The evidence supporting these Findings of Fact is found in the testimony of Public Staff witness Aiken and approximately 19 public witnesses who appeared at the hearing. This testimony shows that the residents of Greenbrier Estates, Ravenwood, Willow Creek, Paceville, and Country Squire subdivisions have experienced service problems in connection with the water service provided by Bailey Utilities. These service problems can be summarized by subdivision as follows:

(1) Greenbrier Estates - A number of the customers testified that there have been numerous water outages in Greenbrier Estates with the latest of these outages occurring as recently as January 10, 1978. Several customers also testified that the water has an odor.

(2) Ravenwood - A large number of customers from Ravenwood appeared at the hearing to detail the dismal state of their water service and the problems that they have experienced. The greatest problems have been the extremely low water pressure in the system and very large amounts of air in the lines. Customers also testified that there have been numerous and long-lived water outages. In addition, the water contains gravel, dirt, and other debris. One customer, a chemist, testified that his son once experienced a mild chlorine burn due to an excessive and/or improperly regulated amount of chlorine in the water. Customers also complained that Mr. Bailey had

not been receptive in handling their complaints or improving their service.

(3) Willow Creek - The customers in Willow Creek stated that there is dirt and gravel flowing through the water system and that they have experienced numerous outages without having been given prior notice. They also testified that the system has excessive air in the lines that causes faucets to sputter and spit. Moreover, the water is greenish blue in color and leaves an almost uncleanable stain on their fixtures. Additionally, the customers stated that they have had difficulty getting the Applicant's answering service to promptly relay service complaints to Mr. Bailey.

(4) Country Squire - Three customers of Country Squire appeared at the hearing. They testified that they have experienced low water pressure. They stated that these problems were most severe in the summer and/or to customers on the elevated side of the water system. One witness also testified that the lawn at Mr. Bailey's well lot at Country Squire is not regularly mowed; consequently, the well lot is in an unsightly condition.

(5) Paceville Public Staff witness Aiken stated that after receiving complaints of poor water quality in Paceville Subdivision he had a water sample tested by the State Division of Health Services. The results of the test indicated concentrations of manganese three times in excess of the amount allowed by U. S. Public Health Standards. Based on this evidence the Hearing Commissioner is of the opinion that the water in Paceville should be treated to reduce the objectional characteristics of the excessive manganese.

As a result of the testimony of the witnesses, the Hearing Commissioner concludes that the water service presently provided by Bailey Utilities to Country Squire, Duchess Downs, Oak Ridge, Rolling Acres, and Friendship Village subdivisions is adequate. Mr. Bailey should, however, take steps to remedy the customers' complaints in Country Squire.

The Hearing Commissioner concludes that Bailey Utilities is not providing acceptable levels of service in the Greenbrier Estates, Ravenwood, Willow Creek, and Paceville subdivisions. Serious problems exist in these four subdivisions that need correcting.

Mr. Bailey testified on behalf of Bailey Utilities that he was aware of most of the problems described during this proceeding and was taking steps to solve these problems. So that the Commission can be assured the needed improvements are made, the Hearing Commissioner concludes that the Applicant shall make arrangements with the Public Staff of the Utilities Commission to monitor the implementation of

needed improvements. Also, the Public Staff shall assist the Commission in determining when each subdivision has been upgraded to an acceptable level.

The Hearing Commissioner is fully aware of customer discontent in the four subdivisions where deficient service exists; however, the testimony presented and the information to be adduced from the hearing make it clear that additional funds are required to upgrade the service in these four subdivisions. The rates herein approved as shown on Appendix A will produce a return to Bailey Utilities that is fair and reasonable if service were adequate in all subdivisions. To ensure that adequate service will be made available, the Applicant and the Public Staff agree that the funds from the four subdivisions provided by the increase allowed shall be used to make the needed improvements in the four subdivisions. To accomplish this, the Applicant and the Public Staff have stipulated that approximately $786 per month, the estimated difference between the current rates and the approved rates, will be accounted for by the Applicant through the use of an escrow account for deposits and withdrawals of these monies. All withdrawals by Bailey Utilities from the escrow account are to have prior approval from the Water and Sewer Division of the Public Staff of the Commission. However, this escrow provision shall not be construed as limiting the amount of monies Mr. Bailey shall devote to service improvement.

This Docket No. W-365, Sub 4, will be held open and, at the expiration of approximately 90 days from the date of this Order, a resumed hearing will be held for the purpose of reviewing the Applicant's efforts to remove the service deficiencies in the four subdivisions (Greenbrier Estates, Ravenwood, Willow Creek, and Paceville) which were found to have inadequate service. Subsequent to this resumed hearing, the Hearing Commissioner shall issue a final Order in this docket. Said Order shall incorporate the findings and conclusions stated herein and the Hearing Commissioner's assessment of the extent to which Bailey Utilities has accomplished service improvements and the appropriate action warranted by such service improvements.

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 or after the next billing period following the effective date of the Order.

3. That Applicant use an escrow account for the deposits of monies received from the four subdivisions (Greenbrier Estates, Ravenwood, Willow Creek, and Paceville) in which

inadequate service was found to exist. The amount to be deposited monthly shall be $786, the approximate difference between the current rates and the rates approved herein. All withdrawals from the escrow account shall be for improvement expenditures approved by the Commission Public Staff.

4. That the Applicant shall immediately take steps to make the following improvements:

(a) Greenbrier Estates - Water pressure shall be maintained at no less than 30 psi at each meter; the source of odor problems in the water system shall be ascertained and corrective measures taken to eliminate the odor.

(b) Ravenwood - Water pressure shall be maintained at no less than 30 psi at each meter; excessive entrained air shall be eliminated from the water supply; all excessive debris shall be flushed from water mains; a maintenance program shall be established to keep the mains clear of excessive debris; arrangements, acceptable to the Commission, shall be made with contractors to prevent future service interruptions by those contractors.

(c) Willow Creek - Excessive entrained air shall be eliminated from the water supply; the pH of the water shall be adjusted through the addition of proper chemicals to a noncorrosive level; all excessive debris shall be flushed from water mains, and a maintenance program shall be established to keep the mains clear of excessive debris.

(d) Paceville - Acceptable treatment for the removal of excessive manganese shall be instituted on the water system.

5. That Applicant shall insert a flyer in the first billing to each customer in the subdivisions of Greenbrier Estates, Ravenwood, Willow Creek, and Paceville after the effective date of the approved rates. The flyer shall contain the message shown on Appendix B attached to this Order.

6. That this Docket No. W-365, Sub 4, shall be held open for the purpose of a resumed hearing to be held on June 28, 1978, at 9:30 a.m. in the Commission Hearing Room, 430 North Salisbury Street, Raleigh, North Carolina, to review the status of the service improvement program in the four subdivisions referred to in Ordering Paragraph 4 above. The status of the escrow account and its operation and continuation will be reviewed at this time.

7. That Applicant send a notice to each customer in the four subdivisions listed in Ordering Paragraph 4 containing the message printed on Appendix C attached to this Order.

The notice shall be inserted as a flyer in the envelope with the customer billing nearest one week in advance of the scheduled resumed hearing ordered in Ordering Paragraph 6 above.

8. That the Applicant adopt the Uniform System of Accounts for Class C Water Utilities as prescribed by the Commission and establish a system of accounting which shall include a general ledger and which shall be maintained on a monthly basis.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of April, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
BAILEY UTILITIES, INC.

WATER RATE SCHEDULE

METERED RATES:

Up to the first 3,000 gal./month - $6.00 minimum
All over 3,000 gal./month - $1.00 per 1000 gal.

CONNECTION CHARGES:*

Country Squires	- $300	Friendship Village	- $450
Duchess Downs	- $300	Paceville	- $400
Oak Ridge	- $175	Ravenwood	- $385
Rolling Acres	- $350	Willow Creek	- $400

Greenbrier Estates: $135.00 for each 3/4-inch house connection to main; actual cost plus 20% for house connection larger than 3/4-inch.

$150.00 for each lot served by new main extension, in addition to house connection charge.

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: None.

*Per Lot - Paid by Developer except for Greenbrier Estates.

ISSUED IN ACCORDANCE WITH AUTHORITY GRANTED BY THE NORTH CAROLINA UTILITIES COMMISSION IN DOCKET NO. W-365, SUB 4, ON MARCH 31, 1978.

APPENDIX B
Bailey Utilities, Inc.
Docket No. W-365, Sub 4

Commission Renders Decision

The Commission issued its decision in the Bailey Utilities, Inc., general rate case by its Interim Order dated March 31, 1978.

The Order grants Bailey Utilities an annual increase of $12,767 in gross revenues against a requested annual increase of $49,790. New rates will be $6.00 for the first 3,000 gallons per month, plus $1.00 per 1,000 gallons for usage above 3,000 gallons.

For those customers living in Greenbrier Estates, Ravenwood, Willow Creek, and Paceville, the revenues (estimated at $786 per month) from the increased rates will be placed in an escrow account by Bailey Utilities, Inc., to be used only for improving the quality of service offered in these subdivisions. On June 28, 1978, at 9:30 a.m. in the Commission Hearing Room, 430 North Salisbury Street, Raleigh, North Carolina, Mr. Bailey will be required to report to the Commission at a public hearing the results of the service improvement plan in the four subdivisions. The Public Staff will be called upon to comment on the service improvements, and residents of Greenbrier Estates, Ravenwood, Willow Creek, and Paceville subdivisions will be given an opportunity to comment on service improvements. At this time the Commission will take whatever action deemed appropriate based on the data and information presented at the hearing.

APPENDIX C
Bailey Utilities, Inc.
Docket No. W-365, Sub 4

Resumed Hearing

You are hereby notified that the resumed hearings for Bailey Utilities, Inc., is scheduled for 9:30 a.m., June 28, 1978, in the Commission Hearing Room, 430 North Salisbury Street, Raleigh, North Carolina.

The purpose of this hearing will be to receive a status report and/or other information from Bailey Utilities, Inc., relating to the service improvement program in the Greenbrier Estates, Ravenwood, Willow Creek, and Paceville

subdivisions. The Public Staff will be called upon for its assessment of the improvements, and residents of these neighborhoods shall have an opportunity to be heard with respect to service improvements.

NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-365, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Bailey Utilities, Inc., 5827 North Boulevard, Raleigh, North Carolina, for Authority to Increase Rates for Water Utility Service in North Carolina	)) ORDER))

BY THE COMMISSION: Based upon the stipulation of the parties in the above-captioned docket to waive the right to file exceptions to the Recommended Interim Order attached hereto and upon its review thereof, the Commission concludes that said Interim Order should become effective immediately.

IT IS, THEREFORE, ORDERED that the attached Interim Order Granting Partial Increase in Rates and Directing Improvements shall become effective with the issuance of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of April, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. W-400-A, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Country Hills Utilities, Inc., et al., Post Office Box 218, Knightdale, North Carolina, for Authority to Increase Rates for Water Utility Service in Wake and Johnston Counties, North Carolina	) RECOMMENDED) ORDER) AUTHORIZING) RATE) INCREASE

HEARD IN: Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on January 24, 1978

BEFORE: Hearing Commissioner Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

David R. Shearon, Attorney at Law, P.O. Box 1777, Raleigh, North Carolina 27602

For the Public Staff:

Paul L. Lassiter, Assistant Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

TATE, HEARING COMMISSIONER: By application filed on January 11, 1977, in the above captioned matter, the following Applicants seek approval to increase rates for water utility service in their respective service areas:

Company	Service Area
Country Hills Utilities, Inc.	- Country Hills (Johnston County)
Central Utilities, Inc.	- Bentley Woods (Wake County)
Barclay Downs Utilities, Inc.	- Barclay Downs (Wake County)
Brookwood Utilities, Inc.	- Brookwood (Wake County)
North Forest Utilities, Inc.	- North Forest (Wake County)
Ridge Haven Utilities, Inc.	- Ridge Haven (Wake County)
Gaylee Village Utilities, Inc.	- Gaylee Village (Wake County)

By Order issued January 28, 1977, in Docket No. W-400-A, Sub 2, the Commission declared the matter to be a general rate case, suspended the proposed rates, scheduled the matter for public hearing, and required that public notice of the application and hearing be given.

By Order issued February 1, 1977, in Docket No. W-629, the Commission established interim rates for Woodstone Utilities, Inc., in its service area in Woodstone Subdivision in Wake County pending final determination of appropriate rates in Docket No. W-400-A, Sub 2.

By Order issued February 10, 1977, in Docket No. W-400-A, Sub 2, the Commission amended its previous Order of January 28, 1977, to include Brookwood Utilities, Inc., which had inadvertently been omitted from the Order.

Public Notice was given as required by the Commission. However, the Commission Staff requested a continuance of the hearing until it could obtain additional data from the

Applicant. By Order issued April 5, 1977, the matter was continued until a date to be specified later.

By Order issued September 20, 1977, in Docket No. W-645, the Commission established interim rates for Woodvalley Utilites, Inc., in its service area in Woodvalley Subdivision in Wake County pending final determination of appropriate rates in Docket No. W-400-A, Sub 2.

By Order issued December 15, 1977, the rate case in Docket No. W-400-A, Sub 2, was rescheduled for hearing and the Respondents (including Woodstone Utilities, Inc., and Woodvalley Utilities, Inc.) were required to give public notice of the rescheduled hearing.

The Public Staff intervened on January 4, 1978, and intervention was allowed.

Public Notice was given as required by the Order of December 15, 1977, and the hearing was convened in the Commission Hearing Room on January 24, 1978, as specified in the Commission's Order.

William J. Timberlake, President of the Applicant Companies, appeared at the hearing and presented testimony in support of the proposed rate increase. Jesse Kent, Jr., Utilities Accountant, and David P. Creasy, Utilities Engineer, appeared as witnesses for the Public Staff and presented testimony concerning their evaluation of the rates and rate structures of the Applicant Companies. Several public witnesses appeared to testify concerning the quality of service.

Based on the prefiled testimony and exhibits, the testimony and exhibits received at the hearing, a late exhibit filed at the request of the Hearing Commissioner, and the entire record in this matter, the Commission now makes the following

FINDINGS OF FACT

1. That the seven Applicant Companies originally designated as Respondents in this proceeding are owned and operated by William J. Timberlake.

2. That since the application in this proceeding was filed, William J. Timberlake has acquired and begun operating two additional utility companies.

3. That the Applicants hold franchises from this Commission to furnish water utility service to 615 customers in certain subdivisions in Wake and Johnston Counties.

4. That the Applicants' present monthly rates are $6.50 minimum charge for the first 400 cubic feet water usage and $.65 per 100 cubic feet for all usage over 400 cubic feet.

5. That the Applicants' proposed monthly rates are $9.85 minimum charge for the first 400 cubic feet water usage and $1.33 per 100 cubic feet for all usage over 400 cubic feet.

6. That the Applicants had a consolidated original cost net investment of $170,295 at the end of the 12-month period ending December 31, 1976; that they had a consolidated net operating income for return of $795 (annualized) at the end of the test period; and that they had a consolidated rate of return on net investment of 0.46%.

7. That test-period operating expenses should be increased by approximately $1440 per year in order to allow for payment of a salary to William Timberlake for work done for the water system.

8. That the Applicants would have had a consolidated net income for return of $30,582 (annualized) at the end of the 12-month period ending December 31, 1976, under their proposed water rates, which would have yielded a consolidated rate of return of 17.96% on their $170,295 original cost net investment.

9. That the Applicants would have had a consolidated net operating income for return of $16,996 (annualized) at the end of the 12-month period ending December 31, 1976, under the rates approved herein, which would have yielded a rate of return of 9.98% on their consolidated original cost net investment of $170,295 which is just and reasonable and an operating ratio of 81.29%.

10. That the rates found appropriate for the seven original Applicants should also be applied to customers of new utility companies operated by William J. Timberlake hereafter, including Woodstone Utilities, Inc., and Woodvalley Utilities, Inc.

11. That the Applicant Companies have been charging a $4.00 service fee for each bad check, and that these service charges are reasonable and should be listed on their approved tariffs.

12. That the quality of service is satisfactory.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-5

The evidence for these Findings is contained within the official files of the Commission and in the hearing held on January 24, 1978.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6-11

The evidence for these Findings is contained in the prefiled testimony and exhibits of Public Staff witnesses Kent and Creasy. The testimony and accounting adjustments of the Public Staff witnesses were uncontested by the Applicants. The Applicants did present evidence, however,

that Mr. Timberlake does perform work for the water system for which he is not compensated. The Hearing Commissioner concludes that operating expenses for the test year should be increased by $1440 per year ($10/hour x 12 hours/month x 12 months) to provide for the payment of a salary to Mr. Timberlake for work done for the water system. The Hearing Commissioner concludes that a rate of return of 9.98% on the consolidated original cost net investment is just and reasonable in this case.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Public Staff testimony indicated that petitions from many of the customers opposed the rate increase, but that significant complaints regarding water quality were received only from Bentley Woods Subdivision. The testimony indicated that a subsequent survey of Bentley Woods Subdivision indicated that the large majority of the customers were satisfied with the water quality, although approximately 15% of the customers objected to it. One customer each from North Forest and Ridge Haven Subdivisions, two customers from Gaylee Village, and none from Bentley Woods testified at the hearing that they objected to the water quality, although several other customers testified in opposition to the rate increase. All of the complaints about water quality were similar in that they referred to blue stain and copper taste caused by the ground water produced from the Applicant Companies' wells. Such water seems to be objectionable only to a minority of the customers, and there are no indications that those customers would be willing to pay the higher rates necessary for more complete treatment of the water.

ADDITIONAL CONCLUSIONS

The Applicant Companies presented testimony at the hearing that the present charge of $4.00 for disconnect and reconnection was noncompensatory. Evidence was introduced at the hearing showing that a few customers were regularly not paying their bills on time and the resultant cost of disconnect and reconnection was being spread over all customers. At the request of the Hearing Commissioner a late exhibit was filed verifying the fact that some customers are abusing the disconnect charge. While N.C.U.C. Rule R7-20(f) provides that the usual reconnection charge shall be $4.00, the Hearing Commissioner finds that sufficient facts have been presented to show that the customers paying their bills promptly should not have to subsidize those customers who make a habit of nonpayment. The Hearing Commissioner, therefore, concludes that a more equitable charge for reconnection would be a graduated reconnection fee with a charge of $4.00 for the first disconnect, a charge of $6.00 for the second disconnect, and a charge of $10.00 for the third and each successive disconnect for good cause. Specific notice of this new reconnection charge shall be provided by the Company with the monthly bill one month in advance of instituting such

charges. This variation of the usual reconnection charge is not intended as a source of additional revenue for the Companies but is provided to prevent the cost of recurrent violations being paid for by those customers who pay their bills on time.

IT IS, THEREFORE, ORDERED:

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.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of May, 1978.

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

APPENDIX A

Barclay Downs
Utilities, Inc. - Barclay Downs (Wake County)
Brookwood
Utilities, Inc. - Brookwood (Wake County)
Central
Utilities, Inc. - Bentley Woods (Wake County)
Country Hills
Utilities, Inc. - Country Hills (Johnston County)
Gaylee Village
Utilities, Inc. - Gaylee Village (Wake County)
North Forest
Utilities, Inc. - North Forest (Wake County)
Ridge Haven
Utilities, Inc. - Ridge Haven (Wake County)
Woodstone
Utilities, Inc. - Woodstone (Wake County)
Woodvalley
Utilities, Inc. - Woodvalley (Wake County)

WATER RATE SCHEDULE

METERED WATER RATES:
Up to first 400 cubic feet per month, minimum - $7.20
All over 400 cubic feet per month, per 100 cu. ft. - $1.00

CONNECTION CHARGES: $2.00

RECONNECTION CHARGES:
If water service cut off by utility for good cause (NCUC Rule R7-20(f))
1st reconnect $ 4.00
2nd reconnect $ 6.00
3rd and all additional reconnects $10.00
If water service discontinued at customer's request (NCUC Rule R7-20(g)) $ 2.00

SERVICE CHARGE FOR RETURNED CHECKS: $ 4.00

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: None.

ISSUED IN ACCORDANCE WITH AUTHORITY GRANTED BY THE NORTH CAROLINA UTILITIES COMMISSION IN DOCKET NO. W-400-A, SUB 2, ON MAY 9th, 1978.

DOCKET NO. W-274, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Heater Utilities, Inc., Post Office Box 250, Cary, North Carolina, for Authority to Increase Rates for Water Utility Service in all of Its Service Areas in North Carolina) ORDER SETTING RATES

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on October 5, 6, and 9, 1978

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Robert Fischbach and Ben E. Roney

APPEARANCES:

For the Applicant:

Henry H. Sink, Sink & Powers, Attorneys at Law, P.O. Box 1471, Raleigh, North Carolina 27602

For the Public Staff:

Paul L. Lassiter and Stephen G. Kozey, Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

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 Ad Hoc Committee-Water Rates, Stonehenge Home Owners Association, Water Committees of Camelot,

Roundtree, Coachman's Trail, Martindale and Cambridge Subdivisions

BY THE COMMISSION: By application filed with the North Carolina Utilities Commission in the above-captioned matter on May 30, 1978, 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 26 service areas in North Carolina.

By Order issued on June 28, 1978, 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; and the Applicant was ordered to give public notice of the proposed increased rates and date of the scheduled hearing.

On July 27, 1978, the Public Staff filed Notice of Intervention. The Intervention of the Public Staff was deemed recognized without the issuance of an order pursuant to Commission Rule R1-19(e).

On August 9, 1978, the Applicant filed with the Commission a letter seeking approval of its publication of the Notice to the Public required by the Commission Order of June 28, 1978. Attached to the letter were affidavits of publication stating that the Notice to the Public of the rate case had been published in the News and Observer and the Durham Morning Herald. Additionally, a copy of the Notice to the Public was mailed and/or hand delivered to all the customers of the Applicant in the affected service areas.

By Order issued on August 16, 1978, the Commission approved the Applicant's publication.

On September 20, 1978, a combined Petition to Intervene was filed by the Medfield-Kingsbrook Homeowners Association, Hidden Valley and Hidden Valley West Ad Hoc Committee on Water Rates and the Stonehenge Homeowners Association. By Order issued September 22, 1978, the Commission allowed the Intervention.

At the call of the hearing, the Applicant, the Protestants, the Public Staff and a large number of public witnesses were present. A motion was made by the Water Committees in Camelot, Roundtree, Martindale, Cambridge, and Coachman's Trail Subdivisions to be a part of the Intervention already filed by the Medfield-Kingsbrook Homeowners Association, Hidden Valley and Hidden Valley West Ad Hoc Committee on Water Rates and Stonehenge Homeowners Association. The motion was allowed.

The first part of the hearing dealt with complaints by customers concerning the water service provided by the Applicant. Complaints were voiced by customers in eight of the 26 subdivisions served by the Applicant. These eight

subdivisions were Grey Moss, Ossippee, Stonehenge, Northgate, Roundtree, Coachman's Trail, Cambridge, and Camelot.

The second part of the hearing dealt primarily with the financial issues involved in the case. R.B. Heater, President of Heater Utilities, Inc., William E. Grantmyre, Vice President of Heater Utilities, Inc., and John M. Little, a Certified Public Accountant with the Firm of Ernst & Ernst, testified for the Applicant. William L. Dudley, Public Staff Accountant, and Dr. Richard Stevie, Public Staff Economist, testified for the Public Staff.

At the close of the hearing, the parties were directed that Briefs and Proposed Orders would be due 30 days from the mailing of transcripts.

Based on the prefiled testimony and exhibits, the matters and things testified to at the hearing, and the entire record in this case, the Commission now makes the following

FINDINGS OF FACT

1. The Applicant, Heater Utilities, Inc., is a South Carolina Corporation domesticated in North Carolina, and holds a franchise to furnish water utility service in 26 service areas in North Carolina.

2. The total increases in rates and charges under the Applicant's filing would have produced approximately $97,484 in additional gross revenues annually.

3. The Applicant's present rates were set by Order issued October 6, 1977, in Docket No. W-274, Sub 20.

4. The test period for this proceeding is the 12-month period ending September 30, 1977.

5. The quality of service provided by the Applicant is generally satisfactory.

6. The approximate total operating revenues of the Applicant under present rates on an end-of-period basis are $202,202, and after the requested increase would be $299,686.

7. The reasonable end-of-period level of operating expenses under present rates including interest of $16,288 is $215,025.

8. Under the Applicant's present rates, the test period operating ratio is 106.34% ($215,025 ÷ $202,202).

9. An operating ratio is the proper basis for fixing the Applicant's rates in this proceeding.

10. A fair and reasonable operating ratio for the Applicant is 92.80% ($225,345 ÷ $242,825).

11. The Applicant should be allowed an increase in addition to the annual gross revenues which should be realized under its present rates in an amount not to exceed $40,623. This increase is required in order for the Applicant to have a reasonable opportunity through efficient management to achieve an operating ratio of approximately 92.80%. The increased revenue requirement is based upon the reasonable test year operating revenues and expenses, including interest and taxes, as heretofore determined.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

These findings are based on the official records of the Commission and on the verified application of Heater Utilities, Inc., in this docket.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Testimony was received from 10 customers representing eight of Heater's 27 service areas; including three customers from Ossippee; one each from Cambridge, Camelot, Coachman's Trail, North Gate, and Stonehenge; and one spokesman each from the homeowners associations of Grey Moss and Roundtree.

Three customers from Ossippee presented a petition in opposition to the rate increase and testified concerning iron stains on fixtures, low pressure on Back Street, and the need to paint the elevated tank. The system is an old mill village system, and the customers generally agreed that service was much improved since Heater took over operation of the system in 1970.

Several customers from other systems testified that they also have iron stains on fixtures, and one customer testified that the elevated tank in Camelot also needs painting. Mr. R.B. Heater testified that most systems with iron staining problems were now being treated with sequestering agents which do not remove iron particles but keep them in suspension so that they do not cause further staining. He contended that there had been insufficient funds to hire a special contractor to paint the elevated tanks.

One customer from Camelot testified concerning blue-green stains on fixtures. Mr. Heater contended that the Company had checked out similar complaints from Camelot in the past and had found that the water had an acceptable pH.

Three customers, including homeowner's spokesmen from Grey Moss and Roundtree, testified concerning intermittent low pressure, outages, and sediment in the water although such service has been improved recently. Mr. Heater testified that many of the problems with outages, low pressure, and

sediment in mains were typical problems incurred in new subdivisions and were caused by damage to the water systems by contractors' vehicles and equipment. He contended that new wells had been installed in Grey Moss and Roundtree which have helped resolve problems in those areas.

In response to several complaints concerning the Company's failure to respond to calls for emergency service in a timely fashion, Mr. Heater testified that priorities are placed on all service calls, and that calls of a less serious nature receive lower prority, which explains the longer response time for some service requests. Mr. Heater indicated that the Company needs to add an additional field employee to improve service response time and that it presently does not have enough funds to do so.

It is acknowledged that the Company has room for improvement in its processing of service requests, reporting of interruptions, and other administrative matters, but its general performance in these areas appears to be reasonable. After considering the nature of the customer complaints testified to in this case, it can also be concluded that service is satisfactory.

However, the Applicant could further improve service and perhaps eliminate the types of complaints testified to herein by investing additional funds for field personnel, painting tanks, flushing mains to reduce iron staining, etc. The Commission considers the operating ratio hereinafter granted Applicant will provide sufficient funds to make the necessary improvements.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Both the Applicant and the Public Staff presented what they considered to be the proper test-year level of revenues under present rates. The Public Staff proposed $202,202 as the proper end-of-period level, whereas the Applicant contended the proper level to be $200,981. The difference of $1,221 between the parties results from two adjustments proposed by Public Staff witness Dudley. The first adjustment concerns the removal of $32 of interest income from operating revenues. In his direct testimony, witness Dudley stated that although the interest income was immaterial in amount, it was of a nonutility nature, and accordingly should not be considered in the fixing of just and reasonable rates. The Commission, for reasons which are self evident, finds this adjustment to be entirely consistent and proper.

The remaining difference between the parties concerns the proper level of revenues to be realized from the Lynnbank, Masonwoods, Stonehenge, and Cantebury subdivisions. Staff witness Dudley testified that all four systems had been recently acquired by the Applicant and that none of the four had been operational for the entire test year. Witness Dudley stated that his analysis of the Applicant's test year

consumption records revealed that approximately 47% of the test-year meter readings of customers receiving service at the end of the test year, in the aforementioned subdivisions, reflected zero usage.

In order to arrive at an end-of-period level of revenues that was representative of the level the Applicant could be expected to experience on an on-going basis, witness Dudley calculated an annualized level of revenues for these subdivisions by multiplying the end-of-period number of customers by the average customer consumption. Average customer consumption for these subdivisions was calculated based upon customer usage during the period October 1977 through July 1978.

The Applicant contends that the Public Staff's adjustment is improper in that it was based upon usage data applicable to a period subsequent to the close of the test year and that the Public Staff made no adjustment to operating expenses to reflect the added costs associated with the annualized level of consumption, thereby, creating a mismatch of revenues and cost.

The purpose of the test-year concept in the fixing of rates is to arrive at an annual level of revenues and costs that is representative of the level the Company can be expected to experience on an on-going basis. In determining such revenues and costs the Commission is required by G.S. 62-133(C) "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 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 keeping with the test-year concept in the fixing of rates the Commission believes that it is reasonable, necessary and proper to include in the test-year level of operations the revenue annualization adjustment as proposed by the Public Staff. The Commission wishes to emphasize that this revenue annualization adjustment does not adjust the test-year level of revenues for customer growth or increased customer usage, in any material respect, subsequent to the close of the test year but rather is required to determine the annual level of revenues the Company would have realized under present rates during the test year had the customers being served at the end of the test year received service throughout the entirety thereof.

With respect to the Applicant's contention that no adjustments were made to operating expenses to reflect the added costs associated with the annualized level of revenues from customer growth and usage during the test year, the Commission would remind the Applicant that numerous pro forma adjustments were made to the test year level of expense by both the Applicant and the Public Staff. Many,

if not most, of which were directly related to the increase in the number of customers served or increased customer usage during the test year. Among the more glaring adjustments to operating expenses resulting from customer growth and usage are the Applicant's "Cost of Acquired Systems" adjustment and its "Annualization Adjustment," the sum total of which is $11,992. The propriety of these and other adjustments is discussed subsequently.

Based upon the foregoing, the Commission concludes that the proper level of operating revenues under present rates for use herein is $202,202 and under the Applicant's proposed increase in rates would have been $299,686 ($202,202 + $97,484).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Testimony regarding the proper level of operating expenses was presented by Company witnesses Grantmyre and Little and Public Staff witness Dudley. In his direct testimony, Public Staff witness Dudley proposed several adjustments which the Company accepted at the hearing. These adjustments will not be reiterated here.

The adjustments proposed by Public Staff witness Dudley which were not accepted by the Company are as follows:

Line No.	Item	Amount
1.	Transportation expense	$(753)
2.	Annualization adjustment	(9,253)
3.	Life insurance expense	(3,005)
4.	Outside services expense	(775)
	Total	$(13,786)

( ) Denotes decrease

Witness Dudley eliminated $753 of test year operations and maintenance expense applicable to a short-term truck rental. In his direct testimony, he stated that this rental expense was incurred because a Heater Utilities' truck was out of service for repairs.

He testified that "the short-term rental expense is apparently unusual and nonrecurring since no similar situation has taken place in the Company's North Carolina operations in the last twelve months, according to the Applicant." Witness Dudley stated that his objective was to remove from the test year any nonrecurring or abnormal items of cost so as to base the setting of rates on a normalized level of operations.

The question before the Commission is not whether the expense was incurred, but whether the short-term lease expense represents a normal, recurring item of cost. It must be remembered in the fixing of rates that the purpose

of the "normalization" and the "test year" concepts is to arrive at an annual level of revenues and costs that are representative of the level the Company can be expected to experience on an on-going basis. This is not to say that each and every item of cost included in the test year is expected to be incurred in every 12 month period subsequent to the test year, but that total revenues and total costs are expected to remain in the same relationship one to the other.

Therefore, in determining the propriety of total inclusion or exclusion of a certain item of cost from the test year level of operations it must first be determined whether such cost is of such an extraordinary nature that it or similar costs are not likely to occur again within some reasonable period of time into the future.

After carefully considering the evidence presented in this regard the Commission concludes that this truck rental expense does not represent an extraordinary item of cost and accordingly should not be excluded from the test year cost of service. The Commission, therefore, rejects the Public Staff's adjustment.

The second adjustment to which the parties disagree is witness Dudley's elimination of the Applicant's $9,253 annualization adjustment. In addition to adjusting specific items of cost to an end-of-period level, the Applicant proposed a further annualization adjustment in the amount of $9,253. Witness Dudley contended that this adjustment was improper and accordingly should not be included in the test year level of cost. Witness Dudley stated that although this type of adjustment was accepted in the Applicant's prior case, its use in the present case was inappropriate since the Applicant had proposed specific adjustments to take expenses to an end-of-period level. Witness Dudley testified that the Applicant had incorrectly calculated the annualization adjustment since the annualization factor, which was based on customer growth during the test year, was applied to items of cost which had previously been adjusted to an end-of-period level on an item by item basis.

The Commission acknowledges that it is without question improper to further increase items of cost, which have previously been fully annualized for changes in price and usage by application of an annualization factor based on customer growth or for that matter by any other methodology, for such an adjustment clearly results in double counting. However, the Commission believes it is equally improper to completely ignore items of cost which when considered individually are immaterial in amount and accordingly do not lend themselves to annualization on an item by item basis but when considered in the aggregate do represent significant costs.

The Commission after having very carefully considered the evidence with regard to the adjustment calculated by

application of the annualization factor, and other annualization adjustments proposed by the Applicant and the Public Staff found proper by the Commission for use herein, concludes that an annualization adjustment to increase operating expenses to an end-of-period level in the amount of $4,040 is required to fully annualize those items of cost not specifically adjusted to an end-of-period level on an item by item basis. This adjustment is necessary as a result of changes in both price and levels of usage (growth) during the test year.

The next area of disagreement between the parties concerns witness Dudley's proposed adjustment to remove $3,005 of life insurance expense from the test year cost of service. Witness Dudley stated that Heater Utilities had paid in excess of $10,300 ($3,005 of which related to North Carolina operations) of life insurance premiums covering only its officers, and that their spouses were the beneficiaries of the individual policies. He further stated that the ratepayers should not be required to pay in rates to cover these personal expenses of Heater Utilities' officers. This witness further testified that costs associated with a group life insurance policy which covers all of the employees of the Applicant are reflected in the test year cost of service.

The Commission after careful examination of the evidence presented concludes that the premiums associated with the maintenance of separate $100,000 life insurance policies on the lives of the executive officers of the Applicant are expenses which the ratepayer should not be required to bear. These officers are directly and more than adequately compensated for their services by salaries and other fringe benefits received from the Applicant, the cost of which is included in the test year cost of service. Therefore, the Commission adopts the Public Staff's adjustment to remove this cost from the test year level of operations.

The final adjustment to which the parties disagree concerns outside services expense of $775.

The Commission views this adjustment to be directly analogous to the adjustment proposed by the Public Staff to eliminate truck rental expense from the test year level of operations. Therefore, for reasons previously discussed the Commission rejects this proposed adjustment of the Public Staff.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The Applicant presented its case employing an operating ratio methodology. Dr. Richard Stevie testifying on behalf of the Public Staff contended that methodology employing an operating ratio was the proper basis for setting the rates of the Applicant.

The Commission, therefore, concludes that an operating ratio is the proper methodology to employ in the fixing of the Applicant's rates in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10 and 11

Company witness Grantmyre and Public Staff witness Stevie testified as to determination of a fair and reasonable operating ratio and the methodology which should be employed in the calculation thereof.

Witness Grantmyre testified that the Applicant's requested operating ratio of 87.05% was reasonable because it fell within the range of operating ratios established by recent Commission decisions.

With regard to the methodology which should be employed in the calculation of the operating ratio, witness Grantmyre testified that the Commission should include interest, gross receipts tax, State and Federal income taxes and other operating expenses as the base against which revenues should be measured to determine an operating ratio. Witness Grantmyre's basis for using this approach was that it is consistent with past Commission decisions when the propriety of a general rate increase request was based upon operating ratio considerations.

Public Staff witness Stevie testified that a reasonable operating ratio for Heater Utilities on the cost base which he considered to be proper was 88.57%. The determination of a reasonable operating ratio, according to witness Stevie, depends upon the opportunity cost of alternative investments of comparable risk. Witness Stevie's method for estimating this return is divided into three parts. The first part involves estimation of the return on equity which should be earned by a water utility. Such return is estimated by applying a discounted cash flow analysis to the current yield and to the growth in dividends and earnings per share of the population of water utility stocks listed on the stock exchanges. The second component is the calculation of Heater Utilities' average debt cost. The method's third part estimates the weighted average return based upon the preceding two parts, and the average debt to equity which should be earned by a water utility. Such return is estimated by applying a discounted cash flow analysis to the current yield and to the growth in dividends and earnings per share of the population of water utility stocks listed on the stock exchanges. The second component is the calculation of Heater Utilities' average debt cost. The method's third part, estimates the weighted average return based upon the preceding two parts, and the average debt to equity ratio of the listed water utility stocks. According to witness Stevie, the weighted average return of 12.19% return can then be inverted by simple mathematical operation to obtain the operating ratio of 88.57% which he considered to be fair and reasonable.

Witness Stevie testified that the cost base should exclude interest, gross receipts taxes, and State and Federal income taxes. His basis for this proposal rests primarily upon three considerations. First, a return to the Company is actually compensation for the risk incurred in operating the utility. Interest represents the return to creditors for incurring a portion of the risk. To include interest in the cost base would force the ratepayers to compensate the Company more than twice for this portion of the risk of operating the utility. Second, besides the fact that gross receipts and income taxes are related to the revenues and profits of the Company and not its operation, inclusion of these items in the cost base would allow the Company to earn a return on a return in that revenues would have to be increased to allow the return on these taxes. If allowed, it would have to be increased to allow the return on these taxes. If allowed, it would necessitate an increase in taxes which would necessitate another increase in revenues. According to witness Stevie, this would continue to a finite limit, but in the process, the Company would earn a return on a portion of the calculated return. Thirdly, a parallel can be drawn from the determination of revenues on rate base cases. In that situation, interest is paid for out of the return on rate base, while taxes are included in total revenues. Cost base methodology is analogous in that interest is to be paid for out of the return on cost base and revenue taxes do not earn a return but are included in total revenues.

The determination of a fair operating ratio admittedly requires expert judgment. However, traditional methods and procedures have been devised to eliminate as much judgment as possible. While the use of such methods has the benefit of being proven over time, the Commission is receptive to the final result of any analytical technique offered to assist the Commission in determining a fair and reasonable operating ratio. Indeed, the Commission finds that a diversity of methodology is a desirable end in itself. However, any particular technique requires the use of expert judgment and hence raises questions concerning the amount of objectivity used in the analysis.

In the final analysis, the determination of a fair operating ratio is to be made by this Commission in its own impartial judgment, informed by the testimony of expert witnesses and other evidence of record. Such a determination is, of course, of great importance and must be made with great care. Whatever the ratio allowed, it will have an immediate impact on the Company and its customers and the Commission is well aware of its statutory responsibility to insure that all parties are fairly and equitably treated. Therefore, the Commission after having considered carefully all of the relevant evidence presented in this case concludes that the Applicant should have an opportunity to earn on its North Carolina utility operations an operating ratio in the range from 91% to 93%, which requires an increase in annual revenues from its North

Carolina customers of $40,623, based upon the test year level of operations. As reflected in the schedule presented subsequently, the Commission has calculated the operating ratio inclusive of interest, gross receipts tax, and State and Federal income tax expenses.

The Commission takes judicial notice of the Federal Wage and Price standards promulgated by the President's Council on Wage and Price Stability since the time of hearings in this docket. This timing difference is unfortunate because it leaves the Commission without evidence of record as to whether this Applicant's rate increase should be constrained by the CWPS standards. Nevertheless, the Commission has considered the CWPS standards (revised December 13, 1978).

Heater Utilities is a rapidly growing system with concomitantly growing expenses. The CWPS standards acknowledge the reality of escalating expenses by providing the Profit Margin Limitation exception under 705A-6(a). Simply put, this exception allows the price (or gross revenue) standard to be exceeded provided the company's profit margin does not exceed the best two profit margins of the past three years.

Evidence of record in this docket shows that Heater has operated at a loss for the past three years. The CWPS standards generally acknowledge the possible occurrence of this type situation through its Undue Hardship and Gross Inequity exception (705A-6(b).

Having considered the CWPS standards and the Commission's statutory obligations, the Commission concludes that an operating ratio in the range from 91% to 93% is just and reasonable for the Applicant in this docket.

The following schedule summarizes test year revenues and expenses and presents the 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 Commission.

Heater Utilities, Incorporated
STATEMENT OF REVENUES, EXPENSES AND OPERATING RATIO
For the 12-Month Period Ended September 30, 1977
Docket No. W-274, Sub 22

Line No.	Item	Present Rates	Increase Approved	After Approved Increase
1.	Operating revenues:			
2.	Water	$201,265	$ 40,623	$241,888
3.	Miscellaneous	937	-	937
4.	Total revenues	202,202	40,623	242,825
5.	Operating expenses:			
6.	Depreciation	12,021	-	12,021
7.	Operations and maintenance	165,593	360	165,953
8.	Taxes - other than income	21,123	1,610	22,733
9.	Taxes - income	-	8,350	8,350
10.	Total	198,737	10,320	209,057
11.	Other expenses:			
12.	Interest on customer deposits	385	-	385
13.	Interest expense	15,903	-	15,903
14.	Total	16,288	-	16,288
15.	Total expenses	215,025	10,320	225,345
16.	Net income	$(12,823)	$ 30,303	$ 17,480
17.	Operating ratio	106.34%	-	92.80%

IT IS, THEREFORE, ORDERED:

1. That the Applicant, Heater Utilities, Incorporated, be, and hereby is, authorized to adjust its rates and charges as set forth below based upon the test year level of operations, 12 months ended September 30, 1977, to produce an increase in annual gross revenues not to exceed $40,623.

2. That the Applicant and the Public Staff are hereby called on to propose specific tariffs and customer notice reflecting changes in rates, charges, and regulations to recover the additional revenues approved herein in accordance with the conclusions set forth above within four days from the date of this Order. Exceptions and comments to said proposed tariffs shall be filed within two days thereafter.

3. That the rates, charges, and regulations necessary to produce the additional annual gross revenues authorized herein shall become effective upon the issuance of a further Order approving the tariffs filed pursuant to Paragraph 2 above.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. W-173, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Montclair Water Company, Fayetteville, North Carolina, for Approval of Increased Rates of Sewer Utility Service and Street Lighting Service in Cumberland County, North Carolina	))))	RECOM-MENDED ORDER

HEARD IN: Council Room, City Hall, Fayetteville, North Carolina, on March 23, 1978

BEFORE: Hearing Examiner Robert P. Gruber

APPEARANCES:

For the Applicant:

L. Stacy Weaver, Jr., Attorney at Law, P.O. Box 2129, Fayetteville, North Carolina 28302

For the Intervenor:

Theodore C. Brown, Jr., Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

GRUBER, HEARING EXAMINER: By application filed with the North Carolina Utilities Commission on March 4, 1977, Montclair Water Company (Montclair, Applicant, or the Company) seeks approval to increase its rates for sewer utility service in certain of its service areas in Cumberland County. Montclair also seeks approval to increase its rates for street lighting service in certain of its service areas in Cumberland County. Montclair requested that said increased rates be approved immediately on an emergency basis, subject to refund if such rates should subsequently be shown to be excessive.

By Order issued March 23, 1977, the matter was declared a general rate case; Montclair was required to give public notice of the proposed increase; and an interim rate increase was granted subject to refund if a Staff audit should reveal that increased rates are not justified.

The Commission Staff began an examination of the books and records of Montclair Water Company following the

Commission's Order of March 23, 1977. Subsequently, personnel involved in the examination were transferred from the Commission Staff to the Public Staff pursuant to legislation adopted by the General Assembly in 1977, and the Public Staff continued the investigation of the records of Montclair Water Company.

By Order issued December 15, 1977, the Commission scheduled the matter for public hearing and required Montclair Water Company to give public notice of the hearing. On January 9, 1978, the Commission issued an Order continuing the hearing to a later date. Then, on February 23, 1978, the Commission issued an Order rescheduling the hearing to March 23, 1978, and requiring the Applicant to give public notice of the rescheduled hearing.

Public notice was given as specified by the Commission, and the matter was called for hearing at the time and place captioned above. Montclair Water Company offered the testimony of three witnesses: Hunter Chadwick, Vice President and Secretary of the Company; Dan Blackstock, Manager of the Company; and Phillip W. Haigh, Jr., Certified Public Accountant, who prepared financial statements for Montclair Water Company. The Public Staff offered the testimony of three witnesses: F. Paul Thomas, Public Staff Accountant; David F. Creasy, Director of the Water Division of the Public Staff; and Charles S. Bern of Property Group, Inc., which manages the Woodstream Apartments. Woodstream Apartments is a customer of Montclair Water Company.

FINDINGS OF FACT

1. The Applicant, Montclair Water Company, is a North Carolina public utility as defined in G.S. 62-3 and holds a Certificate of Public Convenience and Necessity granted by the North Carolina Utilities Commission to provide water, sewer, and street lighting service in certain areas in Cumberland County.

2. Prior to March 1977, the Applicant furnished sewer and street lighting service under its Certificate of Public Convenience and Necessity utilizing the following rates:

(1) For all customers whose sewage is treated by Montclair Water Company (includes Montclair, Chestnut Hills, Loch Lomond, Devonwood, etc.):

Up to first 3,000 gal./month	- $2.25 minimum
Next 7,000 gal./month	- $ .30 per 1,000 gal.
All over 10,000 gal./month	- $ .25 per 1,000 gal.

(2) For all customers whose sewage is piped to Fayetteville PWC for treatment (includes Woodstream, Tree Top, Waters Edge, etc.):

Metered Rate:
First 3,000 gal./month - $2.25 minimum
From 3,000 to 7,000 gal./month - $ .30 per 1,000 gal.
All over 10,000 gal./month - $ .25 per 1,000 gal.

Flat Rate: Per month - $2.25

(3) For Brittany Place (Commercial Rate):

Up to first 360,000 gal./month - $270.00 minimum
All over 360,000 gal./month - $ .30 per 1,000 gal.

(4) For Leisure Living Estates (Flat Rate):
Per unit, per month $1.75

(5) Street Lighting Service (Devonwood and Loch Lomond):
Per customer, per month $ .50

3. After March 1977, the Applicant furnished sewer and street lighting service utilizing the following interim rates approved by the North Carolina Utilities Commission on March 23, 1977:

(1) For all customers whose sewage is treated by Montclair Water Company using other than Chestnut Hills sewage treatment plant (includes Loch Lomond, Devonwood, etc.):

Up to first 3,000 gal./month - $2.25 minimum
Next 7,000 gal./month - $ .30 per 1,000 gal.
All over 10,000 gal./month - $ .25 per 1,000 gal.

(2) For all metered residential customers whose sewage is piped to the Chestnut Hills sewage treatment plant (includes Chestnut Hills, Montclair, etc.):

Up to first 3,000 gal./month - $3.50 minimum
Next 7,000 gal./month - $ .30 per 1,000 gal.
All over 10,000 gal./month - $ .25 per 1,000 gal.

(3) For all customers whose sewage is piped directly to Fayetteville PWC for treatment (includes Woodstream, Tree Top, Waters Edge, etc.):

Metered Rate:
$2.00 plus $ .75 per 1,000 gal./month, with $3.00 per month minimum, per PWC Schedule SSOC-2

Flat Rate:
Per month, per unit, per PWC Schedule SSOC-3 $7.00

(4) For Brittany Place (Commercial Rate):

Up to first 360,000 gal./month - $420.00 minimum
All over 360,000 gal./month - $ .30 per 1,000 gal.

(5) For Leisure Living Estates (Flat Rate):
Per unit, per month $3.00

(6) Street Lighting Service (Devonwood and Loch Lomond):
Per customer, per month $ .50

4. The Applicant seeks to utilize the following rates for sewer and street lighting service:

(1) For all customers whose sewage is treated by Montclair Water Company using other than Chestnut Hills sewage treatment plant (includes Loch Lomond, etc.):

Up to first 3,000 gal./month - $2.25 minimum
Next 7,000 gal./month - $ .30 per 1,000 gal.
All over 10,000 gal./month - $ .25 per 1,000 gal.

(2) For all customers whose sewage is piped to the Chestnut Hills sewage treatment plant or to Fayetteville PWC for treatment (includes Woodstream, Tree Top, Waters Edge, Brittany Place, Devonwood, Chestnut Hills, Montclair, etc.):

Metered Rate:
$2.00 plus $ .75 per 1,000 gallons per month, with $3.00 per month minimum, per PWC Schedule SSOC-2

Flat Rate:
Per month, per unit, per PWC Schedule SSOC-3 $7.00

(3) Street Lighting Service (Devonwood and Loch Lomond):
Per customer, per month $1.25

5. The Applicant's original cost investment in utility plant has been fully recovered through contributions in aid of construction and accumulated depreciation.

6. This proceeding should be determined on the basis of operating ratio pursuant to G.S. 62-133.1.

7. No annual depreciation expense should be allowed for rate-making purposes.

8. The $61,163 interest payable on debt incurred by the Applicant should not be allowed for rate-making purposes.

9. The Applicant's combined operating revenues for water and sewer service under the rates in effect prior to March 1977, after appropriate adjustments, would have been $263,406 (unannualized); and the corresponding operating

expenses, including interest expense of $1,535, would have been $221,269 (unannualized).

10. The operating deficit for sewer service under the rates in effect prior to March 1977 would have been approximately $33,895.

11. The net operating income for sewer service under the rates proposed by the Applicant would have been approximately $15,302, yielding an operating ratio of 87.46%.

12. The additional revenues which would result from the Applicant's proposed sewer rates would yield an unreasonable overall operating ratio of approximately 78.32%.

13. The revenues produced by the Applicant's rates in effect prior to March 1977 would produce an overall operating ratio of approximately 84.0%, which is just and reasonable.

14. The following rates for water and sewer service would be a more appropriate rate structure for the Applicant, and would yield an operating ratio of approximately 84.7%:

(1) Water (all metered customers, per month):

$2.70 per month minimum charge (including first 3,000 gallons).

$ .50 per 1,000 gallons for all over 3,000 gallons per month.

(2) Water (all flat rate customers, per month):

$2.70 per house or apartment unit (whether or not apartment unit is occupied).

(3) Sewer (all metered customers, per month)

$4.00 per month minimum charge (including first 3,000 gallons).

$ .75 per 1,000 gallons water usage for all over 3,000 gallons per month.

(4) Sewer (all flat rate customers, per month):

$4.00 per house or apartment unit (whether or not or not apartment unit is occupied).

15. Overall revenues received by Montclair under the interim emergency rates established March 23, 1977, were excessive.

16. Montclair Water Company should meter the water furnished to Tree Top Apartments in such a manner that

Montclair's payments to Fayetteville PWC for treatment of sewage from Tree Top Apartments is based on metered usage rather than on a flat rate per unit.

17. The charge for street lighting service should be $1.00 per month per customer affected.

18. The rates recommended by the Public Staff for sewer service should be placed into effect in all areas except those served by the Loch Lomond sewage treatment plant.

19. The following rates for water service should be placed into effect in all areas except those served by the Loch Lomond sewage treatment plant:

All Metered Customers, per month:

$3.00 minimum charge (includes first 3,000 gallons)
.50 per 1,000 gallons for all over 3,000 gallons

All Unmetered Customers, per month:

$3.00 per house or apartment unit (whether or not apartment unit is occupied)

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 4

The evidence for these Findings of Fact are taken from the application and from the tariffs and records on file with the Commission.

The tariff on file prior to March 1977 showed a $3.50 per month per unit charge for Leisure Living mobile home park, which received both water and sewer service. Since the tariff did not separate the $3.50 charge into a water component and a sewer component, the sewer component is shown herein as $1.75, or 50% of the total. After March 1977, the Commission established a separate interim sewer charge for Leisure Living Estates in the amount of $3.00 per month per unit. The Commission was under the impression that the $7.00 per month per unit proposed for all flat rate customers was intended to apply to Leisure Living Estates also. However, witness Blackstock testified that the proposed $7.00 flat rate was intended to apply only to unmetered apartment units such as Tree Top, and not to unmetered mobile home units such as Leisure Living Estates (Page 49 of Transcript).

The interim rates in effect after March 1977 did not increase the sewer rates for those customers whose sewage is treated by Montclair utilizing other than the Chestnut Hills sewage treatment plant (i.e., the Loch Lomond treatment plant), and no rate increase is proposed for such customers. The principal subdivision areas thus unaffected are Loch Lomond and Devonwood. However, witnesses Chadwick and Blackstock testified that Devonwood West Subdivision, a new subdivision not having any customers yet, will be required

to pipe its sewage to the Fayetteville Public Works Commission (PWC) system for treatment; and that Devonwood Subdivision will also now be required to pipe its sewage to the PWC system for treatment (Pages 38-40 and 51-52, Transcript). Therefore, Devonwood will no longer be unaffected by the proposed increase in sewer rates, since it will no longer be part of the system whose sewage is treated by the Loch Lomond sewage treatment plant. Instead, it will be subject to the new proposed sewer rates applicable to customers whose sewage is piped to the PWC for treatment.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5 AND 6

The evidence for Finding of Fact No. 5 is contained in Thomas Exhibit 1, Schedule 2, and is unrefuted by the Applicant.

Where no investment remains in the utility operation, the best indicator of business risk is then the operating ratio, which measures such risk on a "cost-plus" basis. Therefore, operating ratio should be used for rate-making purposes in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this Finding of Fact is contained in the testimony and exhibits of witness Thomas. Witness Thomas eliminated $60,277 of depreciation expense recorded on the Company's books which was computed on contributed property. Witness Haigh, on page 89 of the transcript, testified that no depreciation was claimed for tax purposes due to the plant's being contributed.

The Applicant is not entitled to depreciation on property in which it has no investment. To require the ratepayer to pay in funds through the rate structure to cover depreciation expense on property contributed would be unjust and unreasonable. This view is consistent with the position of the Internal Revenue Service which holds that a taxpayer can depreciate only that portion of a business asset which represents an actual expense to the taxpayer. Likewise for ratemaking, a utility can only charge as a cost to the ratepayer depreciation on funds devoted to plant investment which are supplied by the debt and equity investor.

Witness Haigh, on page 107 of the transcript, testified that "the developers were trying to get as much cost into their development to expense out and to reduce their income." The contributions made by the developer resulted in a tax saving to the developer which benefited the real estate affiliate of Montclair and not the ratepayers of Montclair Water Company. On the other hand, if the funds for development had been structured as debt to Montclair as theorized by the Company in cross-examination of witness Thomas, the ratepayer would have benefited from the tax savings as a result of the deduction of depreciation expense in the Company's filing of its tax returns. This theory is

nothing but conjecture on the Applicant's part, as the fact remains that the real estate affiliate claimed the development costs and, if depreciation were allowed, the Company would have the advantage both ways.

Witness Haigh, on direct examination, testified that it is necessary that the Company begin to reserve some cash for future improvements and repairs on account of depreciation of the Company's equipment. His only justification for the inclusion of depreciation was that the plant depreciates at the same rate whether or not it was contributed or purchased out of capital contributed.

Witness Creasy testified that "depreciation is strictly for the purpose of recovering original investment, and is never to be considered as a basis for replacing plant" (Page 137 of Transcript).

Following the decision of the Supreme Court of North Carolina in Commission v. Heater Utilities, 288 N.C. 457 (1975) the Applicant will not be allowed to recover an annual charge to operating expenses for the depreciation of the properties representing contributions in aid of construction.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence for this Finding of Fact is contained in the testimony and exhibits of witness Thomas. Witness Thomas eliminated $61,163 of interest expense.

The balance sheet of the Company at the end of the test year reflects a balance of $315,302 in notes payable.

Witness Haigh (Page 102 of the Transcript) testified that ACI was engaged in the business of developing and selling real estate and carried a large development loan with Cameron-Brown and First Citizens, and whenever a development loan would be made, all of the available collateral owned by the shareholders was pledged to secure those loans. The loans were obtained for the purpose of carrying on the real estate operations of ACI. Montclair Water Company, as an affiliate engaging in the furnishing of water and sewer service, received no funds from the borrower to build water and sewer facilities, but became a party to the loans due to the fact that ACI and Montclair Water Company were affiliated through common stockholders. Witness Haigh, in the 1970 report of examination, identifies ACI as the maker of the note and deed of trust securing same and the loan secured by certain real estate held by ACI.

Public Staff's cross-examination Exhibit No. 1, Haigh, is a Report on Examination of Montclair Water Company for the year ended December 31, 1974, and was prepared by the firm of Haigh and vonRosenberg, Certified Public Accountants, of which witness Haigh is a partner. The opinion on the financial statements contained the following: "The Company

had a net stockholders deficit at December 31, 1974 of $666,002.12. In spite of a deficit at the end of the previous year, and a net financial loss of $51,314.21 for the current year, distributions totaling $298,081.12 were paid to stockholders. We question the propriety of these distributions." The opinion also stated that "The Company has received contributions in aid of construction in excess of investment in plant. The Company has made distributions to its shareholders from sources other than income; and it appears that the sources would be borrowings or contributions in aid of construction." The Company had a net financial loss of $769.71 per common share, and at the same time paid out approximately $4,471 per share in dividends to the two stockholders, one of whom is now president of the Company. In addition to the dividends paid in 1974, the amount of $194,522.08 was distributed to the shareholders in 1973 in spite of a net financial loss of $23,467, and a deficit in retained earnings of $310,056.79. The Company's outside auditors recognized that all, or some portion of, the dividends paid in 1974 were borrowed funds and that such borrowings to pay dividends contributed to a deficit in retained earnings of $728,864 at the end of the test year.

Witness Haigh, on page 104 of the transcript, on direct examination, testified that some portion of the dividend payout in 1973 was used by the principals (stockholders of Montclair) for the purchase of Company stock from a former shareholder in ACI and Montclair Water Company. The source of funds for this purpose also had to be derived from borrowings or contributions in aid of construction, or a combination of both. Borrowed funds, or any other funds used to pay dividends in order for Company stockholders to acquire the stock of another stockholder, served no benefit to the customers of Montclair Water Company.

The present day customer should not be required to provide funds through their rates which would pay interest on borrowings used to pay dividends or to acquire stock or for any other purpose which serves no benefit to the customers of Montclair Water Company.

It should also be noted here that Montclair is in violation of G.S. 62-160, since an application for approval to pledge its assets as collateral for the loans has not been filed with the Commission and the Company has not been authorized to pledge such assets.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence for this Finding of Fact is contained in the testimony and exhibits of witnesses Thomas and Creasy.

Applicant's Exhibit No. 2 included numerous pro forma adjustments which resulted in an increase in operation and maintenance expenses for water operations of $38,222 and $12,741 for sewer, or a combined total of $50,963. Witness

Haigh admitted under cross-examination that no funds were expended during the test year 1976 which related to the pro forma adjustments which he included. The pro forma adjustments were derived from discussions with witness Blackstock and represented either estimates or anticipated estimated increases as admitted by witness Haigh under cross-examination.

The pro forma adjustments proposed by witness Haigh may or may not be incurred, and the record fails to show that they did occur in the test year. The pro forma adjustments, in whole or in part, represent items of delayed maintenance without regard to normal operating experience. However, the Public Staff did include an annualizing adjustment in its computations which makes an allowance for future growth in expenses corresponding to the number of customers served.

Witness Haigh testified that water revenues amounted to $221,000 in 1977. He did not have available the sewer revenues for 1977 but testified that the sewer systems had very little growth in customers for the year. Judicial notice should be taken of the Company's annual report to the Commission for 1977 which shows that water customers increased by 272 in 1977 over 1976, and sewer customers increased by 167. Said 1977 annual report also shows that if the $57,220 annual depreciation claimed in said report were disallowed in accordance with recommendations by the Public Staff, said report would have shown a net operating income of approximately $72,959, which is very close to the $70,467 net operating income predicted in Thomas Exhibit 1, Schedule 1, after the proposed rate increase.

Witness Haigh testified that the pro forma adjustment for adding caustic soda to wells amounted to $6,156. This amount was furnished by witness Blackstock, who testified that this cost was determined by the Company's experience from July through December of 1977. The annual report for 1977 filed with the Commission fails to show any water treatment expense for 1977.

Witness Chadwick testified that the Devonwood West Subdivision was approved by the appropriate State agencies contingent on treatment of its effluent along with that of Devonwood Subdivision by the Public Works Commission of the City of Fayetteville. He further testified that the Company was required to make a physical connection between the Loch Lomond sewage treatment plant and the Public Works Commission lines, and this connection was under construction and was virtually complete. Witness Blackstock testified on page 52 of the transcript that Devonwood West was in the development stage and was not serving any customers as of the hearing date. The Commission takes notice of petitions received from the residents of Devonwood Subdivision following the date of the hearing which confirm that Montclair has in fact begun piping sewage from Devonwood to the Fayetteville PWC for treatment, and they confirm that Montclair has also begun applying the higher sewer rates

applicable to customers whose sewage is piped to the PWC for treatment.

Witness Haigh testified that sewage treatment of Devonwood and Devonwood West by the Public Works Commission would result in a cost to Montclair of an additional $20,280 on an annual basis. However, as discussed in Evidence and Conclusions for Findings of Fact Nos. 1-4, the sewer rate which Montclair will apply to Devonwood and to Devonwood West now that they are connected to the PWC lines is considerably higher than the sewer rate which Montclair previously applied; and, therefore, additional sewer revenues will be produced to offset any additional payments to the Fayetteville PWC. Whether or not the additional payments to the PWC will significantly exceed the additional revenues which Montclair will collect is doubtful at this point. It would be unfair and unreasonable to the ratepayer to pay an operating expense that will occur in some uncertain amount one and one-half years after the end of the test year 1976.

Witness Haigh testified as to the need for working capital to make repairs to the plant which had not been made on a regular basis. Haigh and vonRosenberg's Report on Examination for the Year Ended December 31, 1974 (Public Staff Cross-Examination Exhibit No. 1), on Exhibit C, Statement of Changes in Financial Position, includes the following items under the use of working capital:

Cash distributions to shareholders	$298,081
Purchase of stock - American Classic Industries	31,064
Purchase of rental unit	40,562
Increase in accounts receivable - officer	15,110
Total	$384,817

The use of funds as listed above seriously eroded the Company's working capital position from which it has not recovered, resulting in delayed maintenance to be performed. The purchase of American Classic Industry stock and a condominium at Wrightsville Beach at a cost of $71,626 was made from either borrowed funds which increased $351,499 in 1974 or contributions in aid of construction which increased $80,025 in 1974, or a combination of both. Application to secure approval of the purchase of the nonutility assets, ACI stock and rental unit, was not filed with the Commission, and their purchase was of no benefit to the customers of Montclair Water Company, but represented a diversion of funds necessary for proper repairs and maintenance of utility property.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Thomas Exhibit 1, Schedule 3A, shows $60,452 operating revenues, less $93,040 expenses, including taxes, and less $1,307 annualizing adjustment, yielding a $33,895 operating deficit for the year 1976. Certain of the sewer expenses

were allocated to sewer by witness Thomas due to the fact that they were not separated between water and sewer on the books of Montclair Water Company.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Thomas Exhibit 1, Schedule 3A-2, shows $122,109 operating revenues, less $106,807 total expenses, including income taxes and $767 interest, yields $15,302 net operating income, which gives an operating ratio of 87.46%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

Thomas Exhibit 1, Schedule 3A-2, shows that the Applicant's water rates would produce an operating ratio of approximately 72.81%, while the proposed sewer rates would produce an operating ratio of approximately 87.46%, and that the combined water and sewer operations would produce an operating ratio of 78.32%. An operating ratio of 78.32% is considered excessive for this size water and sewer utility operation.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Thomas Exhibit 1, Schedules 1 and 3A, show that the water rates and the sewer rates existing prior to March 1977 will produce a combined unannualized revenue of approximately $263,406, and they will produce a combined unannualized operating expense of approximately $221,269 (including interest of $1,535), which results in an overall operating ratio of 84.0% for the combined water and sewer operations. Eighty-four percent is a reasonable operating ratio for a water and sewer utility operation of this size.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

While Thomas Exhibit 1, Schedule 1, shows that the Company's rates in effect prior to March 1977 would produce an acceptable overall operating ratio of 84.0%, Thomas Exhibit 1, Schedule 3A, shows that the sewer rates produced a deficit for the sewer operations and that the water rates were subsidizing the loss from sewer service. Public Staff witness Creasy testified that the water and sewer rates should be restructured in such a way that subsidization of sewer service by the water customers would be reduced to a minimum. Many of Montclair's water customers do not have sewer service, yet they are required to help subsidize the cost of sewer service to others by paying higher water rates. The objective of restructuring the rates is to increase the sewer revenues by a certain amount and to decrease the water revenues by a corresponding amount, in such a way that the rate of return from the sewer service would be approximately equal to the rate of return from the water service. Witness Creasy proposed a rate structure which would produce an operating ratio of 84.7% for water service and an operating ratio of 84.6% for sewer service (Page 131-133, Transcript). The operating ratios produced

by the rates proposed by witness Creasy are reasonable, and such rates would produce approximately the same combined revenues for water and sewer service as would be produced by the rates in effect prior to March 1977.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

As discussed in the previous Evidence and Conclusions, the expenses which are appropriate for rate-making purposes would result in an unreasonable overall operating ratio under revenues produced by the Applicant's proposed sewer rates (Finding of Fact No. 12), and such expenses would result in a just and reasonable overall operating ratio under revenues produced by the Applicant's sewer rates in effect prior to March 1977 (Finding of Fact No. 13). The overall operating ratio under the previous sewer rates were reasonable in spite of the fact that the sewer service standing alone was operating at a deficit (Findings of Fact Nos. 10 and 13), because the profits from the water service were great enough to offset the deficit and still produce a fair overall operating ratio.

In granting the emergency interim rate increase for sewer service, the Commission was acting on information available for sewer service alone. It had no knowledge of the level of profits produced by the water service. Even so, it did stipulate that the emergency increase for sewer service should be subject to refund if subsequent investigations should determine that the increased revenues were not warranted.

The Applicant suggests that even if certain expenses are disallowed for rate-making purposes, such as the $61,163 interest expense, such expenses were still physically paid and, therefore, the actual cash flow position of the Company is more critical than is shown by the Public Staff's financial statements (Page 159-162, Transcript). However, such an argument is simply another way of saying that regardless of how unsound or how detrimental to the customers such expenses might have been, they were incurred anyway, so the customers should bear the cost. This line of reasoning is particularly offensive in view of the fact that the Company incurred the major expense in question (the $61,163 interest expense) without permission from the Utilities Commission in violation of G.S. 62-160, et seq.

As to the financial viability of the Applicant, it would appear that the Company could have reestablished its financial health if it had retained more of its borrowings in the Company for maintenance or other purposes rather than paying most of them out in dividends.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Witness Creasy testified that Tree Top Apartments can be estimated to use approximately 303,360 gallons of water per month (Page 134, Transcript). He calculated that Montclair

was currently having to pay the PWC approximately $560 per month for treatment of sewage from Tree Top Apartments (based on the flat rate per unit), whereas it would only have to pay the PWC approximately $230 per month if the charge were based on metered water usage. Since such metering only requires that overall water usage be metered rather than metering each apartment unit, such metering would appear to be economically feasible and should be required.

Witness Creasy also advised that the Woodstream Apartments also be metered if the present method of measuring the sewage flow from Woodstream at the sewage pumping station were abandoned (Page 136, Transcript).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

Witness Thomas testified that street lighting revenues and expenses for electric power were separated from the revenues and expenses for the water/sewer operations and that the electric power expense for street lighting was $7,813 during the test year (Page 118, Transcript). Witness Creasy testified that the $7,813 expense amounted to $.99 per billing and that approximately $1.00 per billing would be an appropriate charge for the service (Page 135, Transcript).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The Evidence and Conclusions discussed herein support the fact that the overall revenues of Montclair Water Company should be reduced to a level which produces an operating ratio of approximately 84%-85%. The manner of accomplishing such revenue reduction presents a problem.

On the one hand, reducing the sewer rates back to their pre-March 1977 level would accomplish the desired revenue reduction. However, the evidence shows that the pre-March 1977 sewer rates were too low, in comparison with the actual expenses for providing sewer service.

On the other hand, allowing the interim sewer rates to remain in effect, or allowing the Applicant's proposed sewer rates to take effect, would allow Montclair to continue receiving excessive overall revenues. The evidence shows that the water rates are the problem, not the sewer rates. Unless the water rates are reduced, the Company must continue to receive excessive overall revenues.

The evidence herein supports the fact that the sewer rates should be set at the level recommended by the Public Staff (Finding of Fact No. 14), although the sewer rates recommended by the Public Staff are lower than the sewer rates proposed by Montclair for customers whose sewage is piped to the Chestnut Hills sewage treatment plant or to the PWC system for treatment. This basically includes all customers except those served by the Loch Lomond sewage treatment plant. As discussed herein, the sewer rates

recommended by the Public Staff would constitute an increase in sewer revenues above the pre-March 1977 levels and, therefore, must be accompanied by a corresponding reduction in water revenues.

However, the sewer rates recommended by the Public Staff are higher than those now applied by Montclair to customers whose sewage is treated by the Loch Lomond sewage treatment plant because Montclair did not propose to increase sewer rates to those particular customers. Since those customers have not had appropriate notice that their sewer rates might be increased, their sewer rates should not be raised until such notice and opportunity to be heard has been given, and since the appropriate level of water rates for those customers cannot be finally established without consideration of the final level of sewer rates, the water rates for those customers should not be lowered as proposed by the Public Staff pending appropriate notice and hearing to establish final sewer rates for those customers.

One solution to the problem might be to roll back all of the sewer rates to their pre-March 1977 level, then require further notice and hearing to consider a new overall rate structure, and then raise the sewer rates again while concurrently reducing water rates. However, the confusion generated in the minds of the customers due to the whipsawing sewer rates could be very detrimental to customer relations.

A better solution would be to establish the sewer rates at the level recommended by the Public Staff in all areas except those served by the Loch Lomond plant and then to schedule further notice and hearing for the purpose of setting final rates for customers served by the Loch Lomond sewage treatment plant.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

The water rates applicable to customers whose sewer rates are increased herein should be reduced in such a manner that the increase in sewer revenues will be offset by the decrease in water revenues (See Evidence and Conclusions for Finding of Fact No. 18.). Further, those customers who receive water service but not sewer service from Montclair should pay the same reduced water rates (See calculations, Page 132, Transcript.). Since the customers whose sewage is piped to the Loch Lomond sewage treatment plant are not subject to increased sewer rates or to reduced water rates at this time (See Evidence and Conclusions for Finding of Fact No. 18.), the reduced water rates determined herein will not be as low as those calculated by the Public Staff on pages 131-132 of the transcript.

Montclair's annual report for 1976 indicates that there were approximately 317 sewer customers served by the Loch Lomond sewage treatment plant at the end of the 1976 test year, consisting of sewer customers in Loch Lomond and

Gardens of Loch Lomond Subdivisions. There were also additional sewer customers in Devonwood Subdivision who were served by the Loch Lomond sewage treatment plant at the end of the 1976 test year, but their sewage is now piped directly to the Fayetteville PWC for treatment (See Evidence and Conclusions for Findings of Fact Nos. 1-4 and 9.). Therefore, the number of customers used by the Public Staff to calculate revenues expected from its proposed rates (See Page 132, Transcript.) should be modified by subtracting 317 residential metered water customers from the totals used and then applying the pre-March 1977 rates to those 317 water and sewer customers.

Utilizing the sewer rates discussed herein, the sewer revenues would be calculated as follows:

1. 317 metered residential sewer customers in Loch Lomond @ 8,416 gallons per month average water usage @ pre-March 1977 sewer rates = $3.794 per month per customer = $14,432 per year for sewer service.

2. 650 metered residential sewer customers other than Loch Lomond @ 8,416 gallons per month average water usage @ Public Staff sewer rates = $8.062 per month per customer = $62,884 per year for sewer service.

3. 5 metered commercial sewer customers @ 134,902 gallons per month average water usage @ Public Staff sewer rates = $102.9265 per month per customer = $6,176 per year for sewer service.

4. 623 apartment (and mobile home) units @ $4.00 per month per unit = $2,492 per month = $29,904 per year for sewer service.

Therefore, total sewer revenues will be approximately $113,396.

Utilizing a metered water rate of $3.00 minimum charge for the first 3,000 gallons plus $ .50 per 1,000 gallons for all over 3,000 gallons and a flat rate of $3.00 per month per unit for unmetered water customers, the water revenues would be calculated as follows:

1. 317 metered residential water customers in Loch Lomond @ 8,416 gallons per month average usage @ pre-March 1977 water rates = $7.75 per month per customer = $29,481 per year for water service.

2. 1,547 metered residential water customers other than Loch Lomond @ 8,416 gallons per month average usage @ water rates adopted herein = $5.708 per month per customer = $105,963 for water service.

3. 7 commercial metered water customers @ 102,774 gallons per month average usage @ water rates adopted

herein = $52.887 per month per customer = $4,443 per year for water service.

4. 623 apartment (and mobile home) units @ $3.00 per month per unit = $1,869 per month = $22,428 per year for water service.

5. Other water revenues (Page 132, Transcript) = $560 per year for water service.

Therefore, total water revenues will be approximately $162,875.

The net effect of the new water and sewer rates adopted herein, after adjusting for tax effects, will be approximately as follows:

1. Water
   Total operating revenues = $162,875
   Total operating expenses = $128,412
   Operating ratio = 78.8%

2. Sewer
   Total operating revenues = $113,396
   Total operating expenses = $104,866
   Operating ratio = 92.5%

3. Combined water and sewer
   Total operating revenues = $276,271
   Total operating expenses = $233,278
   Operating ratio = 84.4%

The rates adopted herein will produce an overall operating ratio of 84.4%, which has been found to be a reasonable return, and, therefore, the rates adopted herein should be placed into effect until such time as further hearings are held to determine the appropriate level of water and sewer rates for the approximate 317 customers whose sewage is piped to the Loch Lomond Sewage treatment plant.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Schedule of Rates attached hereto as Appendix A is hereby approved for water, sewer, and street lighting service rendered by Montclair Water Company.

2. That said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

3. That Montclair Water Company is hereby directed to discuss with the Fayetteville Public Works Commission the feasibility of metering water service to Tree Top Apartments and to Woodstream Apartments in such a manner that the Fayetteville PWC will apply its metered sewer rate SSOC-2 to Montclair Water Company for sewer service to those apartment units. Following such discussions, Montclair shall submit a full written report to the Commission outlining the results

of its investigations, including what agreements can be made with the Fayetteville PWC, what cost of meters is required to implement such agreements, and when such agreements might be implemented.

4. That upon expiration of the time period for exceptions and appeal of this Order, the Commission will schedule further hearing and notice to determine appropriate water and sewer rate levels for customers whose sewage is piped to the Loch Lomond sewage treatment plant for treatment.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of October, 1978.

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

APPENDIX A
DOCKET NO. W-173, SUB 10
MONTCLAIR WATER COMPANY
All Service Areas in North Carolina

WATER AND SEWER RATE SCHEDULE

METERED RATES (Residential and Commercial):

Water:

(1) For all customers whose sewage is piped to the Loch Lomond sewage treatment plant:

Up to first 3,000 gal./month	- $4.50 minimum
Next 7,000 gal./month	- $ .60 per 1,000 gal.
All over 10,000 gal./month	- $ .50 per 1,000 gal.

(2) All other customers:

Up to first 3,000 gal./month	- $3.00 minimum
All over 3,000 gal./month	- $ .50 per 1,000 gal.

Sewer:

(1) For all customers whose sewage is piped to the Loch Lomond sewage treatment plant:

Up to first 3,000 gal./month	- $2.25 minimum
Next 7,000 gal./month	- $ .30 per 1,000 gal.
All over 10,000 gal./month	- $ .25 per 1,000 gal.

(2) All other customers:

Up to first 3,000 gal./month	- $4.00 minimum
All over 3,000 gal./month	- $ .75 per 1,000 gal.

FLAT RATES (Apartments, Mobile Homes, etc.):

Water: $3.00 per month per unit (whether or not unit is occupied)

Sewer: $4.00 per month per unit (whether or not unit is occupied)

STREET LIGHTING (Devonwood, Loch Lomond):

$1.00 per customer per month.

CONNECTION CHARGES: (Payable by developers, per contract)

Water: $150.00 tap fee
$400.00 extension fee

Sewer: $100.00 tap fee
$600.00 extension fee

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
If sewer service cut off by utility for good cause (NCUC Rule R10-16(f)): $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: None.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-173, Sub 10, on October 2, 1978.

DOCKET NO. W-279, SUB 5
DOCKET NO. W-284, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Rates for Water and Sewer Utility Service by Cape Fear Utilities, Inc., et al., P.O. Box 424, Wrightsville Beach, North Carolina, and Joint Application by Sanitary Utilities, Inc., and S & H Utilities, Inc., for Authority to Transfer the Sewer System and for Approval of Increased Rates	) FINAL ORDER ON EXCEPTIONS

HEARD IN: North Carolina Utilities Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 11, 1978

BEFORE: Chairman Robert K. Koger and Commissioners Ben E. Roney, John W. Winters, Robert Fischbach, Sarah Lindsay Tate, and Leigh H. Hammond

APPEARANCES:

For the Applicant:

J.H. Ferguson, Attorney at Law, 210 Princess Street, Wilmington, North Carolina 28401

For the Public Staff:

Paul L. Lassiter, Assistant Staff Attorney, Public Staff North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On March 1, 1978, a Recommended Order issued with Appendix A attached thereto instituting a Water and Sewer Rate Schedule for Sanitary Utilities, Inc., which services Millbrook, Lansdowne, Sea Pines, and Pinecliff Subdivisions. In addition, public hearing was scheduled for Tuesday, May 9, 1978, at 9:30 a.m., in the Auditorium of the Cape Fear Technical Institute, 411 North Front Street, Wilmington, North Carolina 28401.

The purpose of further hearing was to receive testimony and evidence as to the extent of subsidization of sewer service by the water customers of the Respondent companies and to receive testimony and evidence as to the appropriate water rate structure and sewer rate structure applicable to all the water/sewer utility operations conducted by G.W. Dobo and his associates. The utility companies designated as Respondents in this proceeding included:

Cape Fear Utilities, Inc. Pine Valley Water Company, Inc.
Consolidated Utilities, Inc. Quality Water Supply, Inc.
Essential Utilities, Inc. Sanitary Utilities, Inc.
Figure 8 Island Utility Company

Respondents filed Exceptions to the Recommended Order as provided in G.S. 62-76. Oral arguments on the Exceptions to said Recommended Order were heard on April 11, 1978.

After careful review and consideration of the evidence in its entirety, the Commission finds:

1. Good cause exists for implementing the rates outlined in Appendix A, as to Sanitary Utilities, Inc.

2. Good cause exists for cancelling the hearing scheduled for May 9, 1978.

3. The Respondents should be allowed adequate time to have a representative test year prior to any investigation into subsidization of sewer service by water customers.

IT IS, THEREFORE, ORDERED:

1. That the Schedule of Rates attached to the Recommended Order as Appendix A is hereby approved.

2. That the hearing scheduled for Tuesday, May 9, 1978, is hereby cancelled.

3. That after sufficient time shall elapse for the Respondents to have a representative test period, the Commission will entertain a motion by the Respondents, the Public Staff, or any other interested party to investigate the rate structure of the Respondent companies.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of April, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. W-203, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Cliffdale Water Company, 4003 Raeford Road, Fayetteville, North Carolina, Providing Utility Service in Mayfair, Cloverleaf, and Cresthaven Subdivisions, Cumberland County, North Carolina) ORDER

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, July 8, 1977, at 9:30 a.m.

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

APPEARANCES:

For the Respondents:

Robert G. Ray, Rose, Thorp, Rand & Ray, Attorneys at Law, 214 Mason Street, Fayetteville, North Carolina 28302

For the Public Staff:

Theodore C. Brown, Jr., Assistant Staff Attorney, Public Staff - Utilities Commission, Dobbs Building, Raleigh, North Carolina

BY THE COMMISSION: This proceeding was instituted as a result of information that there had been repeated water

outages occurring with the involved water system. In its last rate proceeding held on May 12, 1976, Carole E. Clark was operating manager of Cliffdale Water Company. In light of recent problems with the system, Mrs. Clark refused to accept any responsibility for the system and stated that Bill Everleigh was responsible for the system. At the time of the hearing no information had been provided the Commission as to Mr. Everleigh's qualifications or telephone number and address at which Mr. Everleigh could be reached.

By Order dated December 8, 1976, the Commission approved a $1.00 per month surcharge from each customer to help finance improvements to the water system. The Commission's Order directed the Applicant to provide a full accounting of the monies collected through the surcharge with its 1976 Annual Report. Said report was due April 30, 1977, but had not been received as of June 16, 1977, at which time the Commission entered its Show Cause Order directing Carole E. Clark and Bill Everleigh to appear at the captioned time and place to show cause why the Commission should not seek the penalty provided in G.S. 62-310 of up to $1,000 per day per violation for failure to maintain adequate facilities as prescribed in G.S. 62-42.

The Respondents were further ordered to show cause why the Commission should not rescind its Order of December 8, 1976, providing for the $1.00 per month surcharge due to failure on the Respondent's part to comply with the provisions of said Order.

Notice of Intervention was filed in this proceeding on July 7, 1977, by the Public Staff, by and through Hugh A. Wells, Executive Director, and Jerry B. Fruitt, Chief Trial Attorney of the Public Staff, on behalf of the using and consuming public of the State of North Carolina, and said intervention was allowed by appropriate Commission Order of July 7, 1977.

All parties were present at the hearing and represented by counsel.

The Public Staff offered the testimony of the following witnesses:

Don E. Daniel, Coordinator of the Accounting, Gas, and Water Sections of the Public Staff of the Utilities Commission testified that part of his job is to receive the Annual Reports that are required to be filed with the Commission under G.S. 62-36 and that their files did not reflect an Annual Report having been filed for the year ending December 31, 1976.

Craig Stevens, Director of the Consumer Services Division of the Public Staff of the Utilities Commission testified that his office received one complaint in regard to Cliffdale Water Company during the calendar year 1977; that he wrote Cliffdale Water Company on March 4, 1977,

requesting a report regarding the Complainant's problem; that on April 1, the Complainant called advising that the problem was still not taken care of; that again on April 5, he wrote another letter requesting that Cliffdale Water Company advise him immediately of the status of the original complaint and as of the date of the hearing he had received no response to either of his letters and that to his knowledge the letters were not returned to him by the post office.

David Creasy, Utilities Engineer, Head of the Water and Sewer Section of the Public Staff of the Utilities Commission, testified that at the hearing in 1976 in this docket, the Commission entered an Order requesting Cliffdale Water Company to perform certain upgrading procedures in their system and also regarding certain monies that were to be held; that no statement had been filed with him as to what has been done in regard to that money and those fees that have been collected from the customers; that the Order required that information to be filed with the Annual Report which had not been filed; that the Order further required information in regard to obtaining engineering service and their recommendations on what should be done to improve the system; that his office did receive that report, but had not received a report as far as what improvements had actually been made as a result of those studies; that the $1.00 per customer per month allowed in the Commission's Order of December 1976 was to help finance improvements to the water system; that the Commission also allowed a rate increase which was not part of the $1.00 surcharge and that the rate increase was to be used specifically to upgrade the level of operations and maintenance on the facilities that they already had. Mr. Creasy further testified that he had received only one complaint from a customer, other than the complaint Mr. Stevens had received.

Michael Kirby testified that as an employee with the Cumberland County Health Department, he had had contact from citizens of Cumberland County relative to the Respondent water system; that most complaints were relative to service interruptions; that he had received 50 to 60 calls in the last 12 months from customers of Respondent; that he had visited the well site and found that inside the pump house the seal was not intact; that Mr. Everleigh made some repairs with the plastic coupling which kept slipping out and that a steel cable was around that to hold it in place; that the chlorine feeders were not in operation; that there was no security at one of the wells; that he had received complaints relative to the quality of water; that he collected a sample for a chemical analysis on May 10, 1977, which indicated that the elements checked were within the U.S. Public Health Service Drinking Water Standards; however, the Ph was 5.7; and that the Health Department's primary concern was upgrading the system and seeing that the people serviced received an adequate and safe supply of water, which he did not think they were receiving.

On cross-examination, Mr. Kirby further testified that from his observations of the water system, some changes had been made at the well outside of the pump house; that said well had been redrilled from eight to ten inches; that routine maintenance reports were not required to be filed with his office; that when his office received complaints, they called Cliffdale Water Company, Mr. Everleigh's home telephone number, Mrs. Clark's telephone number, Clark Realty Telephone number, and then Mr. Everleigh's mother; and that he frequently had trouble contacting any of the above about the service. Mr. Kirby further stated that he was told on May 12, by Mrs. Clark that Mr. Everleigh was responsible for the system.

Attorney for the Respondents offered the testimony of Carole Clark and W.E. Everleigh. Mrs. Clark testified that she had been managing the water system for her mother and brother; that up until June, she had told them that without the cooperation to get the maintenance done and since she was selling her office, she would not have anywhere to provide an office and they should take it over; that she first managed the Cliffdale Water Company in 1975; that said water system was owned by her mother and brother, Bill Everleigh; that they are equal partners in the system; that she operated the system from 1975 until the first part of 1977; that the water system is listed in the Fayetteville telephone directory with her address and the telephone number; that the customers have been notified that Clark Realty had an answering service and they could reach them 24 hours a day; that the answering service was not on the Cliffdale Water Company line; that the Annual Report for the year ending December 31, 1976, had not been prepared and that she assumed her mother had prepared same; and that she was first aware of the failure to file the required annual report at the time she received the Show Cause Order from the Commission.

A copy of the Annual Report for the year ending December 31, 1976, was introduced into evidence at the hearing, to which Mrs. Clark testified that the back page of said Annual Report gave an accounting of the escrow - Cliffdale Water Company Escrow Account - showing that the $1.00 per customer per month referred to hereinabove was accounted for separately; that at the end of December 1976, the balance of that account was $548.53 and that she made deposits in transit in the last month in the amount of $581.00, which reflected a total balance in that account at that point of $1,129.53; that one hundred dollars of that money was paid to Bill's Well Drilling Service during the year 1976 to run a drawdown test; that she had continued since January 1977 to the date of the hearing to deposit the $1.00 per month per customer in the escrow account; that there was around $1,400 in said account at the time of the hearing; that $210 had been paid to a Mr. King, an engineer, for a study he performed as required by the Commission's Order of December 8, 1976; that she had paid $300 to Mr. Everleigh to cover the well drilling on the ten-inch well

and the well screen that he had installed. Mrs. Clark further testified that the Commission's Order of December 8 also required the system to install some 4-inch mains, which had not been installed; that after operating the system for some two years she is not capable of going out and working on the system or keeping the chemical feeders operating because she is not a mechanic; that her mother and brother wanted to do their own work; that she had received no salary for operating the system, and that she did not have their cooperation and could not answer questions when customers called her.

W.E. Everleigh testified that he originally installed the water system in 1960; that he operated said water system from 1960 until he let his mother and sister have it in 1975; that his basic reason for turning the operation over to his mother and his sister was due to the death of his father and that his mother had nothing to do so he gave it to her to occupy her mind and time; that the system had been entirely owned by his father prior to his death in 1970 and since then he and his mother had been equal owners; that he had operated it continuously with the exception of a two-year period of time since the inception of said system; that during the two years Mrs. Clark was managing the system he did practically all the maintenance; that he was also in the well-drilling business; that in recent months he again took over the management of Cliffdale Water Company; that he was aware of the requirements of the Commission's Order of December 8, 1976, ordering the installation of 4-inch mains in the system and also requiring a new well screen in the system; that he replaced the screen on the 8-inch well with a 6-inch screen as he was unable to acquire an 8-inch screen; that when he installed the 6-inch screen it cut down the volume of water in the well and that was what they were operating on until the order was issued to replace it; that instead of replacing it with an 8-inch screen he installed a 10-inch screen, and that he redrilled the entire well to make it a 10-inch well. Witness Everleigh further testified that since redrilling the well sufficient water has been available to all customers of the system; that, relative to the testimony offered by Mr. Kirby to the effect that he had received calls from customers on June 7, 11, and 14, after the well had been redrilled claiming that they did not have any water, it was his opinion that the pump unit had blown off and the water was going out in the yard; that on another occasion apparently children had been playing and pulled the main switch and cut them off; that the problems with people cutting off the switch had been going on 15 years; that he had never considered building a fence around it; and that the main switch is located on the outside and they could build a box around it or move it inside. Mr. Everleigh further testified that the reason no chemicals were put into the water was due to the fact that the pumps were not large enough to do the job; that until new large pumps are put in, they will still have the quality water problem; that the approximate cost of installing new chemical pumps would run better than $1,000 or $1,500; that the 4-inch mains required

by the Commission's Order of December 8 had not been installed and that it was his opinion that the feeder pumps should be installed before adding the 4-inch mains.

Motion was made by the Attorney for the Public Staff that the Commission order a full and complete audit by the Accounting Division and all monies be accounted properly and a report furnished to the Commission. Said Motion was granted. As to the further Motion by the Attorney for the Public Staff that the Commission take under consideration the possibility of a trusteeship being appointed and that the Commission through the trusteeship set up through the Superior Court, the Commission advised that the Motion would be taken under advisement pending the results of the investigation and audit.

The Commission has received the Public Staff's report relative to the investigation made by the Engineering and Accounting Staff, which reveals that upon interviewing 12 of the residents of the water system, the customers indicated that service was unchanged since a year ago, with some of the customers indicating service was worse and some indicating that service was better; that the nature of complaints appeared to be intermittent loss of pressure or interruption of service and bitter or acidic tasting water occurring in the morning, but improving later in the day. As to the well sites and storage tanks inspected, one well was exposed to the elements and had a freshly poured concrete pad around it. The other well was enclosed by a lightly constructed pump house, which had numerous puncture holes in the aluminum siding used for the sides and roof. Water was standing in the pump house on the concrete floor, clutter of material was stored around the inside, and the general appearance was very makeshift. The plumbing leading out of the well at the pump house jumped each time the pump started, which obviously created a strain at the joints of the plumbing. The storage tanks were both used as pressure tanks meaning that only a small portion of their volume was available as usable storage for the system. The Annual Report filed by the Respondents at the hearing on July 8 listed two chemical feed pumps for water treatment, but neither were connected to the system. The system was not metered. Two of the Cumberland County Health Department representatives met with the Public Staff at the time of their inspection. These representatives indicated that the pump house had been cleaned out earlier in the day before they arrived and that the roof was patched then also, and they considered service to be generally worse in the past year, based on the increased calls they received from customers.

Based on the evidence presented at the hearing, the Report of the Public Staff's investigation, and with judicial notice taken of Docket No. W-203, Sub 4, the Commission makes the following

FINDINGS OF FACT

1. That Cliffdale Water Company was granted a Certificate of Public Convenience and Necessity to provide water utility service in Mayfair, Cloverleaf, and Cresthaven Subdivisions by Commission Order issued on March 29, 1967, in Docket No. W-203, Sub 1.

2. That by Order issued by the Commission on June 23, 1976, Cliffdale Water Company was granted an increase in rates and an engineering study was required. Said Order further instructed Cliffdale Water Company to immediately begin upgrading the level of service it provided by ensuring that it continuously provide treatment of the water in accordance with recommendations of the Cumberland County Health Department; and that the Company investigate the possibility of installing meters for all its customers to determine if such a proposal was economically feasible and submit its findings by letter to the Commission within 90 days of the date of said Order.

3. That by Order issued December 8, 1976, Cliffdale Water Company was authorized to obtain the necessary financing to purchase and install a new well screen for Well No. 1 and a new 4-inch main as outlined in engineer reports filed by Alton B. King, Ph.D; that Cliffdale be authorized to collect a surcharge of $1.00 per month from each of its customers until such time as the Company had recovered the costs incurred by employing an engineer and making the improvements above mentioned; that in conjunction with the filing of its 1976 Annual Report, said Cliffdale Water Company should file a separate accounting with the Commission which detailed the cost of the engineering study, the cost of improvements, and the amount recovered through the surcharge, said accounting to be for the period ending December 31, 1976.

4. That this proceeding was instituted as a result of information that there had been repeated water outages occurring with the involved water system.

5. That Carole E. Clark, who was operating manager of said Company at the time of the rate proceeding held on May 12, 1976, had refused to accept any responsibility for the system and had stated that Bill Everleigh was responsible for the system.

6. That the Respondent water company failed to provide the Commission with an accounting of the monies collected under the approved surcharge as set forth in Finding of Fact No. 3, and also failed to file its Annual Report for the year ending December 31, 1976, prior to the date of the hearing.

7. That in view of the management problems and system outages, the Commission by Order of June 16, 1977, ordered Carole E. Clark and Bill Everleigh to appear before the

Commission at the captioned time and place to show cause why the Commission should not seek the penalty provided in G.S. 62-310 of up to $1,000 per day per violation for failure to maintain adequate facilities as prescribed in G.S. 62-42, and further show cause why the Commission should not rescind its Order of December 8, 1976, providing for the $1.00 per month surcharge due to failure on the Respondent's part to comply with the provisions of said Order.

8. That Cliffdale Water Company failed to file an Annual Report under provisions of G.S. 62-36 for the year ending December 31, 1976.

9. That Cliffdale Water Compay has failed to respond to letter requests of the Consumer Services Division of the Public Staff of the Commission regarding a complaint.

10. That the Respondent failed to perform certain upgrading procedures required by the Commission's Order of June 23, 1976.

11. That the Respondent failed to file a report regarding the monies collected under the surcharge approved by the previous Commission Order referred to hereinabove.

12. That Cliffdale Water Company is owned by W.E. Everleigh and is essentially a small family operation which has in recent months been run by his sister, Carole Clark. W.E. Everleigh originally installed the systems which are the subject of this proceeding around 1960 and operated the systems from that time until sometime in 1975.

13. That due to lack of definition in management responsibilities between Mr. Everleigh and Mrs. Clark, there have been substantial difficulties encountered in the management of the systems in the subdivisions served by Cliffdale Water Company.

14. That during the two years Mrs. Clark has managed the system, W.E. Everleigh testified that he did most of the maintenance work and that in recent months, he had again taken over the management of Cliffdale Water Company and was aware of the requirements of the Commission's Orders regarding service improvement and reporting on the escrow account.

15. That the quality of service rendered by Cliffdale Water Company is inadequate and is characterized by, among other things, service complaints involving numerous interruptions, leaking mains, wells being unprotected, feeders not in operation in the pump houses, exposed switches in the pump houses, difficulties with the Ph content of the water, and loss of pressure.

16. That due to earlier indications from the Respondent that financial difficulties prevented taking steps to correct service deficiencies, the Commission authorized a

$1.00 surcharge increase in rates to customers to provide funds to correct service deficiencies and the Commission by Order of December 8, 1976, authorized the surcharge "until such time as the company has recovered the costs incurred by employing an engineer and making the improvements mentioned in Paragraph No. 1 above" and the Commission in that Order further required an accounting of the amounts collected under the surcharge.

17. That, based upon the Report of the Public Staff filed after the hearing and sent to the Respondent, generally service has remained unchanged, the Public Staff's Report further indicated in detail other deficiencies such as that the chemical feeder for pumps, while being listed in the Annual Report, were not connected to the system and the Report further indicated that "lack of proper installation, operation, and preventive maintenance of the facilities already in place" constitutes the "greatest problem."

18. That at the hearing, upon Motion by the Public Staff, the Commission required the Public Staff to make an accounting and engineering audit and further investigations which produced the above-mentioned Report.

19. That subsequent to the hearing, there have been informal negotiations in attempt to resolve the numerous difficulties surrounding this case. These efforts were directed in part to correct deficiencies to allow the sale of certain residential properties in the subdivisions because of requirements of the Veterans Administration and other loan agencies. These problems continue to be unresolved and most of the deficiencies have not been corrected as of the date of this Order.

20. That continued unresolved service deficiencies and continued unresolved responsibilities in the management and operation of Cliffdale Water Company constitutes an emergency under the provisions of G.S. 62-116 and G.S. 62-118 and there is imminent danger of losing adequate water service or the actual loss thereof.

21. That the overall quality of service provided by Cliffdale Water Company has been and continues to be inadequate.

22. That Cliffdale Water Company is inadequately and inefficiently managed and operated.

23. That Cliffdale Water Company and particularly W.E. Everleigh and Carole Clark have wilfully refused to comply with Commission Orders, file required reports, and otherwise correct specific service deficiency requirements of Commission Orders.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

This Commission by all reasonable means, formal and informal, has attempted to obtain the correction of numerous service deficiencies set forth hereinabove and to correct problems with the internal management and operation of Cliffdale Water Company. The Commission by previous Order allowed a $1.00 surcharge on the bills of all customers to create funds for the correction of service deficiencies. Yet, numerous service deficiencies still exist. These Respondents as representatives of Cliffdale Water Company have not complied with the efforts of this Commission by letters or Orders or with State and local health officials. According to the Public Staff of the Commission which represents the using and consuming public, and the customers of Cliffdale Water Company before the Commission, the "greatest problem ... is the lack of proper installation, operation, and preventive maintenance of the facilities already in place." W.E. Everleigh testified that he installed these systems sometime in 1960 and operated the systems until 1975 after which time Mrs. Clark, his sister, operated the systems. Mr. Everleigh testified, however, that he did "practically all of the maintenance" during those years of operation by Mrs. Clark. In the recent months preceding the hearing held herein, Mr. Everleigh testified that he had resumed management of Cliffdale Water Company.

The Commission has received complaints that persons have been unable to secure loans on real estate involved in the subdivisions in this case by the Veterans Administration and other lending agencies due to the numerous service deficiencies of the water system.

This record is replete with indications that W.E. Everleigh, who has the legal responsibility to manage and operate this system, has done so in an inadequate and unsound manner constituting an emergency which has resulted in an imminent danger of losing water service or the actual loss thereof. As the owner of Cliffdale Water Company, Mr. Everleigh has wilfully failed to comply with Commission Orders which have been directed at correcting service deficiencies and has not fulfilled the responsibilities of a public utility under Chapter 62 of the General Statutes. The overall quality of water service to the subdivisions served by Cliffdale Water Company is inadequate and the management and operation of the water system in the subdivisions is inadequate, inefficient, and unsound.

Therefore, the Commission concludes that the only viable alternative to resolve the innumerable difficulties entered in this case is to request the Executive Director of the Public Staff under the provisions of G.S. 62-15(b)(4) and (g) to file a Complaint in the Superior Court of Cumberland County to have a Trustee appointed by the Court under the provisons of G.S. 62-115 and G.S. 62-118 for the management and operation of the water systems owned by Cliffdale Water

Company, W.E. Everleigh, and any other persons who possess ownership rights therein to the end that the innumerable service deficiencies set forth in this Order are corrected and adequate service is restored to the customers of Cliffdale Water Company.

The Commission hereinafter amends its Order of June 23, 1976, in Docket No. W-203, Sub 4, for the purpose of allowing the $1.00 surcharge to continue, with an accounting to the Commission by any Trustee appointed in order that funds will be available to correct service deficiencies under proper management and operation.

IT IS, THEREFORE, ORDERED as follows:

1. That Cliffdale Water Company, W.E. Everleigh, and any other persons possessing ownership rights in Cliffdale Water Company are herewith required to comply with the provisions of this Order.

2. That the Executive Director of the Public Staff - Utilities Commission is herewith requested to cause counsel for the Public Staff with the assistance of the engineers possessing expertise in water utility operations to file a Complaint in the Superior Court of Cumberland County seeking the appointment of a Trustee to manage and operate the systems owned by Cliffdale Water Company, W.E. Everleigh, and any other persons having ownership rights therein.

3. That the $1.00 surcharge approved by the Commission's Order of June 23, 1976, be, and the same hereby is, allowed to continue in effect for the purpose of providing funds to the Trustee so appointed to correct the service deficiencies set forth within this Order and otherwise insure the provision of adequate service to the customers of Cliffdale Water Company.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of February, 1978.

NORTH CAROLINA UTILITIES COMMISSION
Joan H. Pearson, Deputy Clerk

(SEAL)

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9. Smith, M.M., Storage Warehouse, Inc. - Order Granting Temporary Authority to Conduct Operations Under a Portion of Certificate No. CP-30	T-916, Sub 3	2-16-78

4.	O'Neals Trailer Sales, Roy Wayne O'Neal, d/b/a - Order Vacating Order Revoking Common Carrier Certificate No. C-1047	T-1679, Sub 1	8-1-78
5.	Wainwright Transfer Company, Stanley E. Wainwright, d/b/a - Order Reinstating Common Carrier Certificate No. C-636 and Cancelling Hearing	T-861, Sub 5	3-16-78
H.	Change in Name		
1.	Blevins Motor Express, Hyte Blevins, d/b/a - Order Approving Change in Trade Name from Blevins Tire and Moving Company	T-1242, Sub 5	10-10-78
2.	Carolina Fuel Haulers, Inc. - Order Approving Change in Corporate Name from Wendell Transport Corporation	T-1935	11-7-78
3.	Eastern Delivery Service, Milton and Katherine Moore, d/b/a - Order Approving Change in Name from Milton and Katherine Moore, t/a Shoppers Instant Delivery & Messenger Service	T-1189, Sub 2	5-25-78
4.	Kendall Trucking and Grading - Order Approving Change in Name from Larry Ray Kendall, d/b/a Kendall Grading Service	T-1829, Sub 1	1-4-78
5.	Lamb's Mobile Home Movers, Sam N. Lamb, d/b/a - Order Approving Change in Name from Lamb's Wrecker Service and Garage	T-1729, Sub 1	4-25-78
6.	Loftins Trucking Co., William I. Loftin, Jr., and J. Bryan Loftin, d/b/a - Order Approving Change in Name from Loftins - William I. Loftin, Jr., and J. Bryan Loftin	T-1885	1-9-78
7.	Old Dominion Freight Line, Inc. - Order Approving Change in Corporate Name from Old Dominion Freight Line	T-277, Sub 15	11-22-78
8.	Wendell Transport Corporation- Order Approving Change in	T-1039, Sub 7	11-7-78

October 5, 1978, and is printed in this Annual Report)

13. United Parcel Service, Inc. - Order Vacating Suspension and Allowing Increase in Rates — T-1317, Sub 12 — 9-29-78

M. Relief from Outstanding Orders

	Docket Number	Application Number	Date
1.	T-825, Sub 210, 224 and 225	1559	1-23-78
2.	T-825, Sub 210, 224 and 225	52	1-30-78
3.	T-825, Sub 210, 224 and 225	559	2-7-78
4.	T-825, Sub 210, 224 and 225	53	2-14-78
5.	T-825, Sub 210, 224 and 225	1565	3-6-78
6.	T-825, Sub 210, 224 and 225	1564	3-14-78
7.	T-825, Sub 210, 224 and 225	54	3-28-78
8.	T-825, Sub 210, 224 and 225	561	3-28-78
9.	T-825, Sub 210, 224 and 225	55	4-3-78
10.	T-825, Sub 210, 224 and 225	56	4-12-78
11.	T-825, Sub 210, 224 and 225	58	4-24-78
12.	T-825, Sub 210, 224 and 225	1568	5-2-78
13.	T-825, Sub 210, 224 and 225	564	5-16-78
14.	T-825, Sub 210, 224 and 225	60	6-23-78
15.	T-825, Sub 220	558	2-7-78
16.	T-825, Sub 224 and 225	566	7-19-78
17.	T-825, Sub 225	1582	8-21-78
18.	T-825, Sub 225	65	8-30-78
19.	T-825, Sub 225	569	8-30-78
20.	T-825, Sub 225	66	9-6-78
21.	T-825, Sub 225	1586	9-27-78
22.	T-825, Sub 225	570	10-11-78
23.	T-825, Sub 225	67	10-13-78
24.	T-825, Sub 225	1588	11-21-78
25.	T-825, Sub 225	69	11-21-78
26.	T-825, Sub 225	572	11-21-78
27.	T-825, Sub 225	71 and 72	12-13-78
28.	T-825, Sub 225	70	12-18-78

N. Sales and Transfers

1. A & J Motor Lines, Inc. - Order Approving Sale and Transfer of a Portion of Common Carrier Certificate No. C-918 from R.B. Strader Contractors, Inc. — T-1386, Sub 4 — 8-8-78

2. ABC Transfer Company, Hersel D. Lancaster, d/b/a - Order Approving Sale and Transfer of Certificate No. C-585 from Jack O. Smith, d/b/a Smith Moving & Storage Company — T-1928 — 12-15-78

3.	Aaction Moving & Storage Co., Regional Storage & Transport, Inc., d/b/a - Order Approving Transfer of Common Carrier Certificate No. C-1073 from Spunwind, Inc., d/b/a Aaction Moving & Storage Co.	T-1825, Sub 2	2-16-78
4.	All American Movers of Goldsboro, Inc. - Order Approving Sale and Transfer of Common Carrier Certificate No. C-873 from Faircloth Moving and Storage Company	T-1934	12-21-78
5.	American Charter Movers, Inc. - Order Approving Sale and Transfer of Common Carrier Certificate No. C-857 from Ernest R. Smith, t/a Brevard Moving and Storage Company	T-1892	1-31-78
6.	Barker, Cecil Edward - Order Approving Sale and Transfer of Common Carrier Certificate No. C-1081 from Jean M. White, Administratrix for Estate of Joseph Ruffin White	T-1920	7-31-78
7.	Builders Transport, Inc. - Order Approving Sale and Transfer of a Portion of Common Carrier Certificate No. C-575 from Rabon Transfer, Inc.	T-1638, Sub 3	11-1-78
8.	Carolina Taxi & Industrial Transportation, Inc. - Order Approving Incorporation and Transfer of Permit No. P-268 from Industrial Transportation and Carolina Taxi	T-1743, Sub 1	8-15-78
9.	Cockerham, Wallace, Towing, Inc. - Order Approving Incorporation and Transfer of Common Carrier Certificate No. C-933 from Wallace Cockerham, d/b/a Wallace Cockerham's Garage	T-1385, Sub 1	3-22-78
10.	Denham Moving and Storage, Inc. - Order Approving Sale and Transfer of Common Carrier Certificate No. C-83 from Baxley's Transfer, Inc.	T-1931	12-15-78

11.	Doug's Mobile Home Towing, Walter Douglas Aldridge, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-1052 from Service Recovery Corporation	T-1721, Sub 1	1-3-78
12.	Edwards Mobile Home Moving, R.L. Edwards, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-1008 from Jack Harrold West	T-1916, Sub 1	6-2-78
13.	Edwards Mobile Home Moving, R.L. Edwards, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-1080 from William Ray Milovitz, d/b/a Milovitz Mobile Home Moving	T-1916, Sub 1	7-3-78
14.	Etheridge Transport, Inc. - Recommended Order Approving Sale and Transfer of Common Carrier Certificate No. C-130 from City Fuel and Tire Company	T-1787, Sub 1	5-18-78
15.	Faircloth, Henry, Transfer, Inc. - Order Approving Sale and Transfer of Common Carrier Certificate No. C-982 from Earl O'Quinn	T-902, Sub 11	5-9-78
16.	Federal Motor Express, Inc. - Order Approving Incorporation and Transfer of Common Carrier Certificate No. C-16 from Joe P. Johnson and Albert Johnson, d/b/a Federal Motor Express	T-678, Sub 4	9-26-78
17.	Four Seasons Moving Company, Eugene V. Nix and Dixie C. Nix, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-641 from Ruth Naomi Dimsdale, d/b/a Shelby Moving & Storage Company	T-1919	7-31-78
18.	Harvel's, Cliff, Moving Company - Order Approving Sale and Transfer of Common Carrier Certificate No. C-634 from O.A. Trexler, d/b/a Trexler Transfer	T-1912	5-9-89

19.	M & S Transport, Inc. - Order Approving Sale and Transfer of Common Carrier Certificate No. C-466 from M & S Transport, Ltd.	T-578, Sub 5	2-13-78
20.	Milovitz Mobile Home Moving, William Ray Milovitz, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-827 from Wyatt Allred	T-1853, Sub 2	7-3-78
21.	Riverside Mobile Home Movers, Thomas Rodney Mattison, d/b/a - Order Approving Sale and Transfer of Common Carrier Certificate No. C-936 from Thomas Earl Lewis, d/b/a Riverside Mobile Home Movers	T-1391, Sub 2	12-15-78
22.	Riverside Transportation Co., Inc. - Order Approving Sale and Transfer of a Portion of Certificate No. C-918 from R.B. Strader Contractors, Inc.	T-1866, Sub 2	7-31-78
23.	Service Recovery Corporation - Order Approving Authority to Purchase and Transfer Common Carrier Certificate No. C-867 from Bird Transit, Inc.	T-1752, Sub 2	1-3-78
24.	Shoppers Instant Delivery & Messenger Service, Milton and Katherine Moore, t/a - Order Approving Sale and Transfer of a Portion of Certificate No. CP-30 from Commercial & Package	T-1889, Sub 1	4-13-78
25.	Smith, M.M., Storage Warehouse, Inc. - Order Approving Sale and Transfer of a Portion of Certificate No. CP-30 from Commercial & Package Delivery Service, Inc.	T-916, Sub 3	4-13-78
26.	Stanley's Transfer Co., Inc. - Recommended Order Approving Transfer of Common Carrier Certificate No. C-636 from Mrs. Anne P. Wainwright, Executrix of the Estate of Stanley P. Wainwright, d/b/a Wainwright Transfer Company	T-1913	7-25-78

B. Discontinuance of Agency/Nonagency Stations

1.	Seaboard Coast Line Railroad Company - Order Granting Authority to Discontinue Mobile Agency Station at Nufarms, North Carolina	R-71, Sub 74	2-16-78
2.	Seaboard Coast Line Railroad Company - Order Granting Authority to Retire Its Team Track and Discontinue the Nonagency Station at Powers, North Carolina	R-71, Sub 78	6-12-78
3.	Seaboard Coast Line Railroad Company - Order Granting Authority to Retire Its Team Track and Discontinue the Nonagency Station at Roziers, North Carolina	R-71, Sub 79	6-12-78
4.	Southern Railway Company - Order Amending Order Approving Abandonment of Agency Station	R-29, Sub 207	7-11-78
5.	Southern Railway Company - Order Granting Petition on Six Months' Trial Basis for Authority to Close Its Agency Station at Henderson, North Carolina, and Remove the Depot Station	R-29, Sub 294	10-12-78

C. Dualization of Agency Stations

1.	Clinchfield Railroad Company - Recommended Order Granting Authority to Dualize Operation of Its Station Agencies at Green Mountain and Kona, North Carolina	R-18, Sub 19	2-22-78

D. Mobile Agency Concept

1.	Seaboard Coast Line Railroad Company - Order Granting Authority to Make Permanent the Modification of Its Mobile Agency at Charlotte by Adding Thereto the Agency Station of Gastonia and the Former Nonagency Stations of Lowell and Ranlo, North Carolina, and to Transfer the Agency Station of Lincolnton and the Former Nonagency Stations of Iron,	R-71, Sub 42 R-71, Sub 48	10-11-78

10.	Southern Railway Company - Order Granting Petition for Authority to Remove Side Track No. 58 at Summerfield, North Carolina, and to Remove This Station from the Open and Prepay Tariff	R-29, Sub 297	9-29-78
11.	Southern Railway Company - Order Granting Petition for Authority to Remove Team Track at Battle Ground, North Carolina, from the Open and Prepay Tariff	R-29, Sub 298	10-2-78
F.	Relocation of Agency Stations		
1.	Seaboard Coast Line Railroad Company - Order Granting Authority to Relocate Its Fayetteville, North Carolina, Freight Agency Station	R-71, Sub 80	7-6-78
2.	Seaboard Coast Line Railroad Company - Order Granting Authority to Relocate Its Plymouth, North Carolina, Freight Agency Station	R-71, Sub 83	11-28-78
3.	Southern Railway Company - Order Granting Petition for Authority to Relocate Its Greensboro, North Carolina, Freight Agency Force from the Downtown Station to a New Proposed Station Building at Pomona and to Remove the Old Freight Agency Building at Greensboro and the Old Yard Office at Pomona, North Carolina	R-29, Sub 296	10-24-78
G.	Removal of Station Buildings		
1.	Seaboard Coast Line Railroad Company - Order Granting Authority to Dispose of the Former Freight Station of the Former Virginia & Carolina Southern Railroad Company at Lumberton, North Carolina	R-71, Sub 73	1-17-78
2.	Southern Railway Company - Order Amending Order Approving Abandonment of Agency Station	R-29, Sub 207	7-11-78
3.	Southern Railway Company - Authority to Remove Nonagency	R-29, Sub 278	6-13-78

	Station Building at Staley, North Carolina		
H.	Reparations		
1.	Seaboard Coast Line Railroad Company - Order Authorizing Reparation Award to Firestone Tire and Rubber Company to Adjust Freight Charges	R-71, Sub 76	2-21-78
I.	Tariffs		
1.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing of Proposed 10% Increase on Line-Haul Rates and Charges on Unmanufactured Tobacco Applicable on North Carolina Intrastate Shipments	R-66, Sub 88	3-14-78
2.	Rates-Railroad - Further Order on Exceptions Filed Pursuant to G.S. 62-90 on Filing Proposing Increased Rates	R-66, Sub 88	8-10-78
3.	Rates-Railroad - Order Authorizing Withdrawal of Proposed Tariff Schedule from Tunis, North Carolina, to Goldsboro and Wilson, North Carolina, and Cancellation of Hearing	R-66, Sub 89	8-1-78
4.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing of Proposed Increased Rates on Grain and Grain Products Applicable on North Carolina Intrastate Shipments	R-66, Sub 91	9-8-78
5.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing Various Changes in Rates on Petroleum Products (SFTB Freight Tariff 16-H, Supplement 10)	R-66, Sub 93	11-28-78
6.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing Changes in Transportation Rates on Cottonseed Hulls, Peanut Hulls, Peanut Chaff and Soybean Hulls (SFTB Freight Tariff 764-J, Supplement 4)	R-66, Sub 93	12-6-78

7.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing Changes in Certain Switching Provisions (Freight Tariff 583-31-C, Supplement 12)	R-66, Sub 93	12-6-78
8.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing to Increase Transporation Rates on Crude Earth, Brick, or Tile Materials (SFTB Freight Tariff 763-G, Supplement 32)	R-66, Sub 93	12-6-78
9.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing Various Changes on Grain and Grain Products (SFTB Freight Tariff 972-F, Supplement 65)	R-66, Sub 93	12-20-78
10.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing to Increase Transportation Rates on Clay, Kaolin, and Shale from Boren Siding to Greensboro and Pleasant Garden, North Carolina (SFTB Freight Tariff 1115-B, Supplement 31)	R-66, Sub 93	12-20-78
11.	Rates-Railroad - Order Rejecting Without Prejudice Tariff Filing Proposing Increased Transportation Rates on Certain Brick and Related Articles (SFTB Freight Tariff 763-G, Supplement 27, Item 6007)	R-66, Sub 94	9-8-78
12.	Rates-Railroad - Order Allowing Tariff Effective August 20, 1978, as Filed; Allowing Clarifying Supplements on One Day's Notice; and Requiring Production of Data	R-66, Sub 95	8-16-78
J.	Team Tracks, Spur Tracks, and Side Tracks		
1.	Durham and Southern Railway Company - Order Granting Authority to Change the Status of Its Station at Genlee, North Carolina, from a Non-agency Station to a Private Siding Station	R-20, Sub 9	10-31-78

2.	Norfolk Southern Railway Company - Order Granting Petition to Remove 140 Feet of Side Track Located at Carbonton, North Carolina	R-4, Sub 105	7-6-78
3.	Southern Railway Company - Order Granting Authority to Retire and Remove the Side Track No. 56-4 Located at Hickory, North Carolina	R-29, Sub 255	2-7-78
4.	Southern Railway Company - Order Granting Authority to Remove Side Track No. 70-4 Located at Greensboro, North Carolina	R-29, Sub 276	1-17-78
5.	Southern Railway Company - Order Granting Petition to Remove Side Tracks S-139-3 and S-139-1 at Biltmore, North Carolina	R-29, Sub 279	6-13-78
6.	Southern Railway Company - Order Cancelling Hearing and Granting Amended Petition for Removal of Side Track and Coal Trestle at Asheville, North Carolina	R-29, Sub 281	9-18-78
7.	Southern Railway Company - Order Granting Petition to Remove a 200-Foot Portion of Side Track No. 100-8 Located at North Wilkesboro, North Carolina	R-29, Sub 284	7-5-78
8.	Southern Railway Company - Order Granting Permission to Remove Side Track at Friendship, North Carolina	R-29, Sub 286	7-6-78
9.	Southern Railway Company - Order Granting Petition to Remove the Side Track No. 154-11 Located at Shelby, North Carolina	R-29, Sub 288	7-6-78
10.	Southern Railway Company - Order Granting Petition for Authority to Remove Side Track No. 1-34 Located at Mount Airy, North Carolina	R-29, Sub 292	7-27-78
11.	Southern Railway Company - Order Granting Authority to	R-29, Sub 300	12-7-78

Davis Farm Subdivision, Cabarrus County, North Carolina		
3. Mid-Atlantic Utility Service - Order Cancelling Franchise to Furnish Sewer Service in Parkwood Subdivision, Durham County, North Carolina	W-172, Sub 13	4-20-78
4. Rosewood Water Company - Order Cancelling Franchise to Furnish Water Service in Rosewood Subdivision in Cumberland County, North Carolina	W-305, Sub 3	2-21-78
5. Rushing Construction Company, Inc. - Order Cancelling Franchise to Furnish Water Utility Service in Norwood Acres and Cherokee Woods Subdivision, Union County, North Carolina	W-396, Sub 3	1-24-78
6. Taylor, J. Euel - Order Cancelling Franchise to Furnish Water Service in Little Mountain Subdivision in Haywood County, North Carolina	W-351, Sub 1	4-20-78
7. Williams, Kenneth W. - Order Cancelling Franchise to Furnish Water Utility Service in Kingfield Subdivision in Cabarrus County, North Carolina	W-610, Sub 1	8-9-78
C. Certificates		
1. Bellview Water System, Inc. - Recommended Order Granting a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Bellview Subdivision, Cleveland County, North Carolina, and for Approval of Rates	W-684	11-20-78
2. Birchwood Farms, Inc. - Recommended Order Granting a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Cypress Lakes Subdivision, Cumberland County, North Carolina, and for Approval of Rates	W-656	2-7-78
3. Cardinal Water Company - Recommended Order Granting a	W-668	10-27-78

	sity to Furnish Water Utility Service in Wimbledon Acres Subdivision, Gaston County, North Carolina, and Approval of Rates		
10.	Hydraulics, Limited - Order Granting Franchise and Approving Rates (Water Service, Country West Subdivision, Forsyth County, North Carolina)	W-218, Sub 20	3-23-78
11.	Lake Terrace Water System, Inc. - Recommended Order Granting Franchise and Approving Rates (Water Service, Lake Terrace Subdivision, Cleveland County, North Carolina)	W-683	11-20-78
12.	Maiden, Town of - Recommended Order Granting Certificate to Construct a new Wastewater Treatment Facility and Install Sewer Lines	WT-1	3-31-78
13.	Masonboro Utilities, Inc. - Order Granting Franchise to Provide Water and Sewer Utility Service in Waterford Subdivision, New Hanover County, North Carolina	W-623	7-13-78
14.	Northeast Utility Company - Recommended Order Granting Franchise and Approving Rates (Water Service, Oakwood Subdivision, Onslow County, North Carolina)	W-655	6-12-78
15.	Northeast Utility Company - Supplemental Order Granting Franchise and Approving Rates (Water Service, Oakwood Subdivision, Onslow County, North Carolina)	W-655	8-2-78
16.	Pless, Ben R. - Recommended Order Granting Franchise and Approving Rates (Water Service, Hoopers Valley Estates, Henderson County, North Carolina)	W-553, Sub 1	10-20-78
17.	Ratchford, Lucuis L. - Order Granting Certificate of Public Convenience and Necessity (Water Service, Pineview Sub-	W-421	3-29-78

D. Complaints

1.	H & A Water Service, Inc. - Complaint of David R. O'Brien, et al. - Recommended Order Approving Rates	W-510, Sub 3	4-10-78

E. Mergers

1.	Cape Fear Utilities, Inc., Sanitary Utilities, Inc., and Essential Utilities, Inc. - Order Granting Consolidation or Merger	W-279, Sub 6	6-28-78

F. Rates

1.	Allen Hills Water Company - Recommended Order Granting Rate Increase	W-50, Sub 4	3-14-78
2.	C & M Collection Agency, Inc. - Recommended Order Setting Rates and Requiring Improvements	W-388, Sub 1	10-20-78
3.	Cape Fear Utilities, Inc., Sanitary Utilities, Inc., and S & H Utilities, Inc. - Recommended Order Authorizing Rate Increase, Scheduling Hearing, and Requiring Public Notice	W-279, Sub 5 W-284, Sub 3	3-1-78
4.	Carolina Water Service, Inc. - Recommended Order Granting Increase in Rates	W-354, Sub 3	11-2-78
5.	Cliffdale Water Company, Gaddis Autry, Trustee, d/b/a - Recommended Order Granting Rate Increase	W-203, Sub 6	12-6-78
6.	Coastal Plains Utilities Company - Recommended Order Granting Increase in Rates	W-215, Sub 5	10-5-78
7.	Cumberland Water Company - Recommended Order Denying Rate Increase and Setting Further Hearing	W-169, Sub 14	3-3-78
8.	Duke Power Company - Order Granting Petition for Authority to Increase Rates and Closing Docket	W-94, Sub 6	5-9-78

9.	Gamble, John R., Jr. - Recommended Order Granting Rate Increase	W-286, Sub 1	6-27-78
10.	Goose Creek Utility Company - Order Amending Rate Schedule	W-369, Sub 2	6-7-78
11.	Heater Utilities, Inc. - Order Approving Rate Schedule	W-274, Sub 22	12-29-78
12.	Hensley Enterprises, Inc. - Recommended Order Granting Partial Increase in Rates and Ordering Improvements	W-89, Sub 15	9-25-78
13.	Herman, Grover R., and Wife, Rachel S. Herman - Recommended Order Increasing Rates	W-236, Sub 2	7-12-78
14.	Jackson-Hamlet Water Company - Recommended Order Setting Rates	W-575, Sub 1	9-12-78
15.	Jones, Vernon - Order Establishing Rates	W-620	4-13-78
16.	Killian Water System, Mrs. Grace B. Killian, d/b/a - Recommended Order Increasing Rates	W-298, Sub 2	9-6-78
17.	Lea Water Company, Inc. - Recommended Order Granting Rate Increase	W-377, Sub 1	8-2-78
18.	Lincoln Water Works, Inc. - Recommended Order Granting Increase in Rates	W-335, Sub 1	2-24-78
19.	Looper, C.R. - Recommended Order Granting Increase in Rates	W-501, Sub 1	2-2-78
20.	M & S Corporation - Recommended Order Granting Rate Increase	W-625, Sub 1	3-14-78
21.	Norwood Beach Water System, Bobby E. Moss, d/b/a - Errata Order to Order Dated December 29, 1977, Granting Authority to Increase Rates for Water Service in Norwood Beach, Stanly County, North Carolina	W-498, Sub 1	1-24-78
22.	P & H Water Company, Inc. - Recommended Order Granting Partial Increase in Rates	W-257, Sub 1	1-26-78